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INTERNATIONAL TERRORISM: A COMPILATION OF MAJOR LAWS, TREATIES, AGREEMENTS, AND EXECUTIVE DOCUMENTS

R E P O R T

PREPARED FOR THE

COMMITTEE ON INTERNATIONAL RELATIONS
U.S. HOUSE OF REPRESENTATIVES

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FOREWORD

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, July 25, 2000.

This updated compendium prepared by the Congressional Research Service, entitled "International Terrorism: A Compilation of Major Laws, Treaties, Agreements, and Executive Documents" was requested by me on behalf of the Committee on International Relations. The earlier editions have proven to be a very useful source for those responsible for dealing with issues of international terrorism.

In addition to U.S. legislation and executive documents related to terrorism, the volume also includes bilateral and multilateral treaties and agreements, as well as other multilateral documents. I would like to acknowledge the efforts of those in the Foreign Affairs, Defense, and Trade Division of the Congressional Research Service who worked on the project. The principal contributors to this volume were C. Winston Woodland who coordinated the assembly of the report, and Carolyn Hatcher who prepared major portions. Others who provided significant contributions included Terrence Lisbeth, Dagnija Sterste-Perkins, Marjorie A. Browne, Ellen Grigorian, and Raphael Perl, under the direction of Francis T. Miko. I also want to acknowledge the advice and assistance provided by Michael Kraft of the Office of Counterterrorism, Department of State.

BENJAMIN A. GILMAN,
Chairman.

LETTER OF SUBMITTAL

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, July 24, 2000.

Hon. BENJAMIN A. GILMAN,
Chairman, Committee on International Relations,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In response to the Committee's request, I am submitting an updated version of a compendium entitled: "International Terrorism: A Compilation of Major Laws, Treaties, Agreements, and Executive Documents," first issued as a committee print in August 1987 and subsequently updated in July 1991 and December 1994.

The compilation includes major statutes of interest to the committee along with related Executive orders, documents, and reports. It also includes international treaties and agreements, as well as relevant documents of international organizations. The principal contributors to this volume were C. Winston Woodland who coordinated the assembly of the volume and Carolyn Hatcher who prepared major portions. Others who provided significant contributions included Terrence Lisbeth, Dagnija Sterste-Perkins, Marjorie A. Browne, Ellen Grigorian, and Raphael Perl. The volume was prepared under the overall direction of Francis T. Miko. Michael Kraft of the office of Counterterrorism, Department of State, provided extensive advice and support.

Sincerely,

DANIEL P. MULHOLLAN, *Director.*

ABSTRACT

This compilation comprises major laws, treaties and agreements, and executive documents relating to U.S. and international efforts to combat terrorism. The legislation is subdivided into sections relating to foreign assistance, the Department of State, defense legislation, trade and financial issues, aviation security, and other issues.

It also includes a selection of significant executive orders, executive department regulations, and other executive branch documents and reports. Sections on international agreements include bilateral agreements, as well as relevant multilateral treaties. Other multilateral documents include selected statements from economic summit conferences, United Nations Security Council resolutions, and documents of other organizations.

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1. The Foreign Assistance Act of 1961, as Amended

Partial text of Public Law 87–195 [S. 1983], 75 Stat. 424, approved September 4, 1961, as amended

AN ACT To promote the foreign policy, security, and general welfare of the United States by assisting peoples of the world in their efforts toward economic development and internal and external security, 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 Foreign Assistance Act of 1961."

* * * * * * *

PART II

* * * * * * *

Chapter 8—Antiterrorism Assistance [1]

Sec. 571.[2] General Authority.—Notwithstanding any other provision of law that restricts assistance to foreign countries (other than sections 502B and 620A of this Act), the President is authorized to furnish, on such terms and conditions as the President may determine, assistance to foreign countries in order to enhance the ability of their law enforcement personnel to deter terrorists and terrorist groups from engaging in international terrorist acts such as bombing, kidnaping, assassination, hostage taking, and hijacking. Such assistance may include training services and the provision of equipment and other commodities related to bomb detection and disposal, management of hostage situations, physical security, and other matters relating to the detection, deterrence, and prevention of acts of terrorism, the resolution of terrorist incidents, and the apprehension of those involved in such acts.

Sec. 572.[3] Purposes.—Activities conducted under this chapter shall be designed—

---

[1] Ch. 8 was added by the International Security and Development Assistance Authorizations Act of 1983 (sec. 101(b)(2) of the Further Continuing Appropriations, 1984; Public Law 98–151; 97 Stat. 972). Pursuant to Public Law 98–151, ch. 8 was enacted as contained in title II of H.R. 2992, as reported by the House Committee on Foreign Affairs on May 17, 1983, except for sec. 575 (redesignated in 1996 as sec. 574), which was included in Public Law 98–151.

Sec. 122 of Public Law 104–164 (110 Stat. 1428) provided the following:

"SEC. 122. RESEARCH AND DEVELOPMENT EXPENSES.

"Funds made available for fiscal years 1996 and 1997 to carry out chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.; relating to antiterrorism assistance) may be made available to the Technical Support Working Group of the Department of State for research and development expenses related to contraband detection technologies or for field demonstrations of such technologies (whether such field demonstrations take place in the United States or outside the United States).".

[2] 22 U.S.C. 2349aa. Delegation of Authority No. 145 (February 4, 1984) delegated the functions conferred upon the President by chapter 8 to the Director of the Office for Combating Terrorism.

[3] 22 U.S.C. 2349aa–1.

(1) to enhance the antiterrorism skills of friendly countries by providing training and equipment to deter and counter terrorism;

(2) to strengthen the bilateral ties of the United States with friendly governments by offering concrete assistance in this area of great mutual concern; and

(3) to increase respect for human rights by sharing with foreign civil authorities modern, humane, and effective antiterrorism techniques.

Sec. 573.[4] **Limitations.**—(a) Whenever the President determines it to be consistent with and in furtherance of the purposes of this chapter, and on such terms and conditions consistent with this Act as he may determine, any agency of the United States Government is authorized to furnish services and commodities, without charge to funds available to carry out this chapter, to an eligible foreign country, subject to payment in advance of the value thereof (within the meaning of section 644(m)) in United States dollars by the foreign country. Credits and the proceeds of guaranteed loans made available to such countries pursuant to the Arms Export Control Act shall not be used for such payments. Collections under this chapter shall be credited to the currently applicable appropriation, account, or fund of the agency providing such services and commodities and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used.

(b) The Assistant Secretary of State for Democracy, Human Rights, and Labor[5] shall be consulted in the[6] determinations of the foreign countries that will be furnished assistance under this chapter and determinations of the nature of assistance to be furnished to each such country.

(c)[7] (1) Arms and ammunition may be provided under this chapter only if they are directly related to antiterrorism assistance.

---

[4] 22 U.S.C. 2349aa–2. Sec. 121(b)(1) of Public Law 104–164 (110 Stat. 1428) struck out "SPECIFIC AUTHORITIES AND" from the section heading. Sec. 121(b)(2) of that Public Law struck out subsec. (a) of this section and redesignated subsecs. (b) through (f) as subsecs. (a) through (e), respectively. Subsec. (f), however, had been struck out previously by Public Law 104–132 (see note below). Subsec. (a) had read as follows:

"(a) Notwithstanding section 660 of this Act, services and commodities may be granted for the purposes of this chapter to eligible foreign countries, subject to reimbursement of the value thereof (within the meaning of section 644(m)) pursuant to section 632 of this Act from funds available to carry out this chapter.".

[5] Sec. 163(e)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 405), amended the title designation by striking out "Human Rights and Humanitarian Affairs", and inserting in lieu thereof "Democracy, Human Rights, and Labor".

[6] Sec. 328(a)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1257) struck out "development and implementation of the antiterrorism assistance program under this chapter, including" at this point.

[7] Subsec. (c), redesignated from subsec. (d) by sec. 121(b)(3) of Public Law 104–164 (110 Stat. 1428), was amended and restated by sec. 328(a)(2) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1257). Portions were amended and restated earlier by sec. 213(b) of Public Law 101–604 (104 Stat. 3086), sec. 507 of Public Law 99–399 (100 Stat. 873).

In view of amendments to this subsection by Public Law 104–132, amendments contained in sec. 121(b)(4) of Public Law 104–164 (110 Stat. 1428) cannot be executed. Sec. 121(b)(4) of that Public Law required:

"(b) LIMITATIONS.—Section 573 of such Act (22 U.S.C. 2349aa–2) is amended— * * *

"(4) in subsection (c) (as redesignated)—

"(A) by striking paragraphs (1) and (2);

"(B) by redesignating paragraphs (3) through (5) as paragraphs (1) through (3), respectively; and

"(C) by amending paragraph (2) (as redesignated) to read as follows:

"(2)(A) Except as provided in subparagraph (B), funds made available to carry out this chapter shall not be made available for the procurement of weapons and ammunition.

(2) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year shall not exceed 30 percent of the funds made available to carry out this chapter for that fiscal year.

(d) This chapter does not apply to information exchange activities conducted by agencies of the United States Government under other authority for such purposes.

(f)[8] [Repealed—1996]

Sec. 574.[9] * * * [Repealed—1996]

Sec. 574.[10] Authorizations of Appropriations.—(a) There are authorized to be appropriated to the President to carry out this

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"(B) Subparagraph (A) shall not apply to small arms and ammunition in categories I and III of the United States Munitions List that are integrally and directly related to antiterrorism training provided under this chapter if, at least 15 days before obligating those funds, the President notifies the appropriate congressional committees specified in section 634A of this Act in accordance with the procedures applicable to reprogramming notifications under such section.

"(C) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year may not exceed 25 percent of the funds made available to carry out this chapter for that fiscal year.".

[8] Subsec. (f) was added by sec. 501(c) of Public Law 99–83 (99 Stat. 221), and struck out by sec. 328(a)(3) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1257). It had read as follows:

"(f) Funds made available to carry out this chapter may not be used for personnel compensation or benefits.".

[9] Formerly at 22 U.S.C. 2349aa–3. Sec. 121(c) of Public Law 104–164 (110 Stat. 1428) repealed sec. 574, which had required reports to Congress on antiterrorism assistance.

[10] 22 U.S.C. 2349aa–4. Redesignated from sec. 575 to sec. 574 by sec. 121(d) of Public Law 104–164 (110 Stat. 1428). The authorization for fiscal year 1986 was enacted by sec. 501(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 219). The authorization for fiscal year 1987 of $14,680,000 was inserted in lieu of the amount of $9,840,000 (originally enacted by Public Law 99–83) by sec. 401 of Public Law 99–399 (100 Stat. 862). Previous authorizations include: fiscal year 1984—$5,000,000; fiscal year 1985—no authorization; fiscal years 1988 through 1999—no authorization.

Congress did not enact an authorization for fiscal year 1999. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681), waived the requirements for authorization, and title II of that Act provided the following:

"NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

"For necessary expenses for nonproliferation, anti-terrorism and related programs and activities, $198,000,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, section 504 of the FREEDOM Support Act for the Nonproliferation and Disarmament Fund, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA) and a voluntary contribution to the Korean Peninsula Energy Development Organization (KEDO), and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided,* That the Secretary of State shall inform the Committees on Appropriations at least twenty days prior to the obligation of funds for the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided further*, That of this amount not to exceed $15,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided further*, That such funds may also be used for such countries other than the New Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: *Provided further*, That such funds shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That of the funds appropriated under this heading not less than $35,000,000 should be made available for demining, clearance of unexploded ordnance, and related activities: *Provided further,* That of the funds made available for demining and related activities, not to exceed $500,000, in addition to funds otherwise available for such purposes, may be used for expenses related to the operation and management of the demining program: *Provided further*, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency.".

See also in that Act: sec. 506—Prohibition on Financing Nuclear Goods; sec. 515—Notification Requirements; and sec. 576—Assistance for the Middle East.

Continued

chapter $9,840,000 for the fiscal year 1986 and $14,680,000 for the fiscal year 1987.

(b) Amounts appropriated under this section are authorized to remain available until expended.

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PART III

Chapter 1—General Provisions

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Sec. 620A.[11, 12] Prohibition on Assistance to Governments Supporting International Terrorism.

Sec. 328(b) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1257) provided the following:

"(b) ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVES DETECTION DEVICES AND OTHER COUNTERTERRORISM TECHNOLOGY.—(1) Subject to section 575(b), up to $3,000,000 in any fiscal year may be made available—

"(A) to procure explosives detection devices and other counterterrorism technology; and

"(B) for joint counterterrorism research and development projects on such technology conducted with NATO and major non-NATO allies under the auspices of the Technical Support Working Group of the Department of State.

"(2) As used in this subsection, the term 'major non-NATO allies' means those countries designated as major non-NATO allies for purposes of section 2350a(i)(3) of title 10, United States Code.

"(c) ASSISTANCE TO FOREIGN COUNTRIES.—Notwithstanding any other provision of law (except section 620A of the Foreign Assistance Act of 1961) up to $1,000,000 in assistance may be provided to a foreign country for counterterrorism efforts in any fiscal year if—

"(1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and

"(2) the appropriate committees of Congress are notified not later than 15 days prior to the provision of such assistance.".

[11] 22 U.S.C. 2371.

[12] Section 620A was added by sec. 303 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 753). It was amended and restated by sec. 503(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 220). It was further amended and restated by sec. 5 of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1897).

Section 10 of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1900) provided the following in relation to the amendment of sec. 620A:

"SEC. 10. SELF-DEFENSE IN ACCORDANCE WITH INTERNATIONAL LAW.

"The use by any government of armed force in the exercise of individual or collective self-defense in accordance with applicable international agreements and customary international law shall not be considered an act of international terrorism for purposes of the amendments made by this Act.".

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681), provided the following:

"PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

"SEC. 528. (a) Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to enactment of this Act, shall not be made available to any country which the President determines—

"(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

"(2) otherwise supports international terrorism.

"(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least fifteen days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

* * * * * * *

(a)[13] PROHIBITION.—The United States shall not provide any assistance under this Act, the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act, or the Export-Import Bank Act of 1945 to any country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism.

(b) PUBLICATION OF DETERMINATIONS.—Each determination of the Secretary of State under subsection (a), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1989, shall be published in the Federal Register.

(c) RESCISSION.—A determination made by the Secretary of State under subsection (a) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate—

(1) before the proposed rescission would take effect, a report certifying that—

(A) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(B) that government is not supporting acts of international terrorism;

(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

(2) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

"PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

"SEC. 551. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 40(d) of the Arms Export Control Act or any other comparable provision of law. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

"(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

"(c) Whenever the waiver of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance estimated to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.".

See also in that Act: sec. 540—Special Authorities; sec. 543—Eligibility for Assistance; and sec. 559—Special Debt Relief for the Poorest; and sec. 591—National Commission on Terrorism.

See also sec. 586 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2047), cited as the "Iraq Sanctions Act of 1990",in sec. A.7 of this publication.

[13] See also 18 U.S.C. 2332d, as added by sec. 321 of Public Law 104–132 (110 Stat. 1254), which provides that U.S. persons engaging in financial transactions with the government of a country designated as supporting international terrorism under sec. 6(j) of the Export Administration Act (50 U.S.C. App. 2405) shall be fined under title 18, imprisoned for not more than 10 years, or both.

(d) WAIVER.—Assistance prohibited by subsection (a) may be provided to a country described in that subsection if—

(1) the President determines that national security interests or humanitarian reasons justify a waiver of subsection (a), except that humanitarian reasons may not be used to justify assistance under part II of this Act (including chapter 4, chapter 6, and chapter 8), or the Export-Import Bank Act of 1945; and

(2) at least 15 days before the waiver takes effect, the President consults with the Committee on Foreign Affairs[14] of the House of Representatives and the Committee on Foreign Relations of the Senate regarding the proposed waiver and submits a report to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate containing—

(A) the name of the recipient country;

(B) a description of the national security interests or humanitarian reasons which require the waiver;

(C) the type and amount of and the justification for the assistance to be provided pursuant to the waiver; and

(D) the period of time during which such waiver will be effective.

The waiver authority granted in this subsection may not be used to provide any assistance under the Foreign Assistance Act of 1961 which is also prohibited by section 40 of the Arms Export Control Act.

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SEC. 620G.[15, 16] PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

(a) WITHHOLDING OF ASSISTANCE.—The President shall withhold assistance under this Act to the government of any country that provides assistance to the government of any other country for which the Secretary of State has made a determination under section 620A.

(b) WAIVER.—Assistance prohibited by this section may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

(1) a statement of the determination;

(2) a detailed explanation of the assistance to be provided;

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[14] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that referenses 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.

[15] 22 U.S.C. 2377. Sec. 325 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1256) added this sec. 620G.

Sec. 149 of Public Law 104–164 (110 Stat. 1436) also added a new sec. 620G, relating to depleted uranium ammunition.

[16] Sec. 329 of that Act (110 Stat. 1258) defined assistance as follows:

"(1) the term 'assistance' means assistance to or for the benefit of a government of any country that is provided by grant, concessional sale, guaranty, insurance, or by any other means on terms more favorable than generally available in the applicable market, whether in the form of a loan, lease, credit, debt relief, or otherwise, including subsidies for exports to such country and favorable tariff treatment of articles that are the growth, product, or manufacture of such country; and

"(2) the term 'assistance' does not include assistance of the type authorized under chapter 9 of part 1 of the Foreign Assistance Act of 1961 (relating to international disaster assistance).".

(3) the estimated dollar amount of the assistance; and

(4) an explanation of how the assistance furthers United States national interests.

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SEC. 620H.[16, 17] PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

(a) PROHIBITION.—

(1) IN GENERAL.—The President shall withhold assistance under this Act to the government of any country that provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for the purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), or 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

(2) APPLICABILITY.—The prohibition under this section with respect to a foreign government shall terminate 1 year after that government ceases to provide lethal military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after the date of enactment of this Act.[18]

(b) WAIVER.—Notwithstanding any other provision of law, assistance may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

(1) a statement of the determination;

(2) a detailed explanation of the assistance to be provided;

(3) the estimated dollar amount of the assistance; and

(4) an explanation of how the assistance furthers United States national interests.

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PART IV—ENTERPRISE FOR THE AMERICAS INITIATIVE [19]

SEC. 701.[20] PURPOSE.

The purpose of this part 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, community based conservation, and sustainable use of the environment, and child survival and child development. The Facility will support these objectives through administration of debt reduction operations under this part for those countries with democratically

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[17] 22 U.S.C. 2378. Sec. 326 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1256) added sec. 620H.

[18] "[D]ate of enactment of this Act" probably refers to enactment of the amendment, April 24, 1996.

[19] Sec. 602(a) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3664) added Part IV—Enterprise for the Americas Initiative, secs. 701–710. Formerly, Part IV, which related to amendments to other laws, was repealed by sec. 401 of the FA Act of 1962.

[20] 22 U.S.C. 2430.

elected governments that meet investment reforms and other policy conditions.

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SEC. 703.[21] ELIGIBILITY FOR BENEFITS.

(a) REQUIREMENTS.—To be eligible for benefits from the Facility under this part, a country must be a Latin American or Caribbean country—

(1) whose government is democratically elected;

(2) whose government has not repeatedly provided support for acts of international terrorism;

(3) whose government is not failing to cooperate on international narcotics control matters;

(4) whose government (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights;

(5) that has in effect, has received approval for, or, as appropriate in exceptional circumstances, is making significant progress toward—

(A) an International Monetary Fund standby arrangement, extended Fund arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, a Fund monitored program or its equivalent, unless the President determines (after consultation with the Enterprise for the Americas Board) that such an arrangement or program (or its equivalent) could reasonably be expected to have significant adverse social or environmental effects; and

(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association, unless the President determines (after consultation with the Enterprise for the Americas Board) that the resulting adjustment requirements could reasonably be expected to have significant adverse social or environmental effects;

(6) has put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise is implementing, or is making significant progress toward, an open investment regime; and

(7) if appropriate, has agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

(b) ELIGIBILITY DETERMINATIONS.—Consistent with subsection (a), the President shall determine whether a country is eligible to receive benefits under this part. The President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination.

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[21] 22 U.S.C. 2430b.

2. The Arms Export Control Act

Public Law 90–629 [H.R. 15681], 82 Stat. 1320, approved October 22, 1968, as amended

AN ACT To consolidate and revise foreign assistance legislation relating to reimbursable military exports.

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 "Arms Export Control Act".[1]

Chapter 1—FOREIGN AND NATIONAL SECURITY POLICY OBJECTIVES AND RESTRAINTS

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Sec. 6.[2] Foreign Intimidation and Harassment of Individuals in the United States.—No letters of offer may be issued, no credits or guarantees may be extended, and no export licenses may be issued under this Act with respect to any country determined by the President to be engaged in a consistent pattern of acts of intimidation or harassment directed against individuals in the United States. The President shall report any such determination promptly to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate.

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Chapter 3—MILITARY EXPORT CONTROLS

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Sec. 38.[3] Control of Arms Exports and Imports.—(a)(1) * * *

(2)[4] Decisions on issuing export licenses under this section shall be made in coordination with the Director of the United States Arms Control and Disarmament Agency, taking into account the Director's assessment as to whether the export of an article would contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the devel-

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[1] The new title, "Arms Export Control Act," was added in lieu of "The Foreign Military Sales Act" by sec. 201 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 734). Sec. 201 further stated that "any reference to the Foreign Military Sales Act shall be deemed to be a reference to the Arms Export Control Act.".

[2] 22 U.S.C. 2756. Sec. 6. was added by sec. 115 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1528).

[3] 22 U.S.C. 2778.

[4] Sec. 714(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 497), amended and restated para. (2). The paragraph formerly read as follows:

"(2) Decisions on issuing export licenses under this section shall be made in coordination with the director of the United States Arms Control and Disarmament Agency and shall take into account the Director's opinion as to whether the export of an article will contribute to an arms race, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements.".

opment of bilateral or multilateral arms control or nonproliferation agreements or other arrangements. The Director of the Arms Control and Disarmament Agency is authorized, whenever the Director determines that the issuance of an export license under this section would be detrimental to the national security of the United States, to recommend to the President that such export license be disapproved.

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Sec. 40.[5] Transactions With Countries Supporting Acts of International Terrorism.

(a) PROHIBITED TRANSACTIONS BY THE UNITED STATES GOVERNMENT.—The following transactions by the United States Government are prohibited:

(1) Exporting or otherwise providing (by sale, lease or loan, grant, or other means), directly or indirectly, any munitions item to a country described in subsection (d) under the authority of this Act, the Foreign Assistance Act of 1961, or any other law (except as provided in subsection (h)). In implementing this paragraph, the United States Government—

(A) shall suspend delivery to such country of any such item pursuant to any such transaction which has not been completed at the time the Secretary of State makes the determination described in subsection (d), and

(B) shall terminate any lease or loan to such country of any such item which is in effect at the time the Secretary of State makes that determination.

(2) Providing credits, guarantees, or other financial assistance under the authority of this Act, the Foreign Assistance Act of 1961, or any other law (except as provided in subsection (h)), with respect to the acquisition of any munitions item by a country described in subsection (d). In implementing this paragraph, the United States Government shall suspend expenditures pursuant to any such assistance obligated before the Secretary of States makes the determination described in subsection (d). The President may authorize expenditures otherwise required to be suspended pursuant to the preceding sentence if the President has determined, and reported to the Congress, that suspension of those expenditures causes undue financial hardship to a supplier, shipper, or similar person and allowing the expenditure will not result in any munitions item being made available for use by such country.

(3) Consenting under section 3(a) of this Act, under section 505(a) of the Foreign Assistance Act of 1961, under the regula-

[5] 22 U.S.C. 2780. See also 22 CFR Part 120–130. Sec. 40 was added by sec. 509(a) of Public Law 99–399 (100 Stat. 874). Sec. 40 was amended and restated by the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101–222; 103 Stat. 1892). It previously read as follows:

"Sec. 40. Exports to Countries Supporting Acts of International Terrorism.

"(a) PROHIBITION.—Except as provided in subsection (b), items on the United States Munitions List may not be exported to any country which the Secretary of State has determined, for purposes of section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), has repeatedly provided support for acts of international terrorism.

"(b) WAIVER.—The President may waive the prohibition contained in subsection (a) in the case of a particular export if the President determines that the export is important to the national interests of the United States and submits to the Congress a report justifying that determination and describing the proposed export. Any such waiver shall expire at the end of 90 days after it is granted unless the Congress enacts a law extending the waiver.".

tions issued to carry out section 38 of this Act, or under any other law (except as provided in subsection (h)), to any transfer of any munitions item to a country described in subsection (d). In implementing this paragraph, the United States Government shall withdraw any such consent, which is in effect at the time the Secretary of State makes the determination described in subsection (d), except that this sentence does not apply with respect to any item that has already been transferred to such country.

(4) Providing any license or other approval under section 38 of this Act for any export or other transfer (including by means of a technical assistance agreement, manufacturing licensing agreement, or coproduction agreement) of any munitions item to a country described in subsection (d). In implementing this paragraph, the United States Government shall suspend any such license or other approval which is in effect at the time the Secretary of State makes the determination described in subsection (d), except that this sentence does not apply with respect to any item that has already been exported or otherwise transferred to such country.

(5) Otherwise facilitating the acquisition of any munitions item by a country described in subsection (d). This paragraph applies with respect to activities undertaken—

(A) by any department, agency, or other instrumentality of the Government,

(B) by any officer or employee of the Government (including members of the United States Armed Forces), or

(C) by any other person at the request or on behalf of the Government.

The Secretary of State may waive the requirements of the second sentence of paragraph (1), the second sentence of paragraph (3), and the second sentence of paragraph (4) to the extent that the Secretary determines, after consultation with the Congress, that unusual and compelling circumstances require that the United States Government not take the actions specified in that sentence.

(b) PROHIBITED TRANSACTIONS BY UNITED STATES PERSONS.—

(1) IN GENERAL.—A United States person may not take any of the following actions:

(A) Exporting any munitions item to any country described in subsection (d).

(B) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any country described in subsection (d).

(C) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any recipient which is not the government of or a person in a country described in subsection (d) if the United States person has reason to know that the munitions item with be made available to any country described in subsection (d).

(D) Taking any other action which would facilitate the acquisition, directly or indirectly, of any munitions item by the government of any country described in subsection (d), or any person acting on behalf of that government, if the United States person has reason to know that that action

will facilitate the acquisition of that item by such a government or person.

(2) LIABILITY FOR ACTIONS OF FOREIGN SUBSIDIARIES, ETC.—A United State person violates this subsection if a corporation or other person that is controlled in fact by that United States person (as determined under regulations, which the President shall issue), takes an action described in paragraph (1) outside the United States.

(3) APPLICABILITY TO ACTIONS OUTSIDE THE UNITED STATES.—Paragraph (1) applies with respect to actions described in that paragraph which are taken either within or outside the United States by a United States person described in subsection (l)(3)(A) or (B). To the extent provided in regulations issued under subsection (l)(3)(D), paragraph (1) applies with respect to actions described in that paragraph which are taken outside the United State by a person designated as a United States person in those regulations.

(c) TRANSFERS TO GOVERNMENTS AND PERSONS COVERED.—This section applies with respect to—

(1) the acquisition of munitions items by the government of a country described in subsection (d); and

(2) the acquisition of munitions items by any individual, group, or other person within a country described in subsection (d), except to the extent that subparagraph (D) of subsection (b)(1) provides otherwise.

(d)[6] COUNTRIES COVERED BY PROHIBITION.—The prohibitions contained in this section apply with respect to a country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism. For purposes of this subsection, such acts shall include all activities that the Secretary determines willfully aid or abet the international proliferation of nuclear explosive devices to individuals or groups or willfully aid or abet an individual or groups in acquiring unsafeguarded special nuclear material.

(e) PUBLICATION OF DETERMINATIONS.—Each determination of the Secretary of State under subsection (d) shall be published in the Federal Register.

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[6] Sec. 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681), provided the following:

"PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

"SEC. 551. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 40(d) of the Arms Export Control Act or any other comparable provision of law. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

"(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

"(c) Whenever the waiver of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance estimated to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.".

(f) RESCISSION.—(1) A determination made by the Secretary of State under subsection (d) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate—

(A) before the proposed rescission would take effect, a report certifying that—

(i) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(ii) that government is not supporting acts of international terrorism; and

(iii) that government has provided assurances that it will not support acts of international terrorism in the future; or

(B) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

(i) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

(ii) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

(2) (A) No rescission under paragraph (1)(B) of a determination under subsection (d) may be made if the Congress, within 45 days after receipt of a report under paragraph (1)(B), enacts a joint resolution the matter after the resolving clause of which is as follows: "That the proposed rescission of the determination under section 40(d) of the Arms Export Control Act pursuant to the report submitted to the Congress on _____ is hereby prohibited.", the blank to be completed with the appropriate date.

(B) A joint resolution described in subparagraph (A) and introduced within the appropriate 45-day period shall be considered in the Senate and the House of Representatives in accordance with paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act (as contained in Public Law 98–473), except that references in such paragraphs to the Committees on Appropriations of the House of Representatives and the Senate shall be deemed to be references to the Committee on Foreign Affairs [7] of the House of Representatives and the Committee on Foreign Relations of the Senate, respectively.

(g) WAIVER.—The President may waive the prohibitions contained in this section with respect to a specific transaction if—

(1) the President determines that the transaction is essential to the national security interests of the United States; and

(2) not less than 15 days prior to the proposed transaction, the President—

(A) consults with the Committee on Foreign Affairs [7] of the House of Representatives and the Committee on Foreign Relations of the Senate; and

[7] 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.

(B) submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing—

(i) the name of any country involved in the proposed transaction, the identity of any recipient of the items to be provided pursuant to the proposed transaction, and the anticipated use of those items;

(ii) a description of the munitions items involved in the proposed transaction (including their market value) and the actual sale price at each step in the transaction (or if the items are transferred by other than sale, the manner in which they will be provided);

(iii) the reasons why the proposed transaction is essential to the national security interests of the United States and the justification for such proposed transaction;

(iv) the date on which the proposed transaction is expected to occur; and

(v) the name of every United States Government department, agency, or other entity involved in the proposed transaction, every foreign government involved in the proposed transaction, and every private party with significant participation in the proposed transaction.

To the extent possible, the information specified in subparagraph (B) of paragraph (2) shall be provided in unclassified form, with any classified information provided in an addendum to the report.

(h) EXEMPTION FOR TRANSACTIONS SUBJECT TO NATIONAL SECURITY ACT REPORTING REQUIREMENTS.—The prohibitions contained in this section do not apply with respect to any transaction subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities).

(i) RELATION TO OTHER LAWS.—

(1) IN GENERAL.—With regard to munitions items controlled pursuant to this Act, the provisions of this section shall apply notwithstanding any other provisions of law, other than section 614(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(a)).

(2) SECTION 614(A) WAIVER AUTHORITY.—If the authority of section 614(a) of the Foreign Assistance Act of 1961 is used to permit a transaction under that Act or the Arms Export Control Act which is otherwise prohibited by this section, the written policy justification required by that section shall include the information specified in subsection (g)(2)(B) of this section.

(j) CRIMINAL PENALTY.—Any person who willfully violates this section shall be fined for each violation not more than $1,000,000, imprisoned not more than 10 years, or both.

(k) CIVIL PENALTIES; ENFORCEMENT.—In the enforcement of this section, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies, and officials by sections 11(c), 11(e), 11(g), and 12(a) of the Export Administration Act of 1979 (subject to the same terms and conditions as are applicable to such powers under

that Act), except that, notwithstanding section 11(c) of that Act, the civil penalty for each violation of this section may not exceed $500,000.

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

(1) the term "munitions item" means any item enumerated on the United States Munitions list (without regard to whether the item is imported into or exported from the United States);

(2) the term "United States", when used geographically, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States;

(3) the term "United States person" means—

(A) any citizen or permanent resident alien of the United States;

(B) any sole proprietorship, partnership, company, association, or corporation having its principal place of business within the United States or organized under the laws of the United States, any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States;

(C) any other person with respect to that person's actions while in the United States; and

(D) to the extent provided in regulations issued by the Secretary of state, any person that is not described in subparagraph (A), (B), or (C) but—

(i) is a foreign subsidiary or affiliate of a United States person described in subparagraph (B) and is controlled in fact by that United States person (as determined in accordance with those regulations), or

(ii) is otherwise subject to the jurisdiction of the United States

with respect to that person's actions while outside the United States;

(4) the term "nuclear explosive device" has the meaning given that term in section 830(4) of the Nuclear Proliferation Prevention Act of 1994; and

(5) the term "unsafeguarded special nuclear material" has the meaning given that term in section 830(8) of the Nuclear Proliferation Prevention Act of 1994.

SEC. 40A.[8] TRANSACTIONS WITH COUNTRIES NOT FULLY COOPERATING WITH UNITED STATES ANTITERRORISM EFFORTS.—

(a) PROHIBITED TRANSACTIONS.—No defense article or defense service may be sold or licensed for export under this Act in a fiscal year to a foreign country that the President determines and certifies to Congress, by May 15 of the calendar year in which that fiscal year begins, is not cooperating fully with United States antiterrorism efforts.

(b) WAIVER.—The President may waive the prohibition set forth in subsection (a) with respect to a specific transaction if the Presi-

[8] 22 U.S.C. 2781. Sec. 330 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1258) added this sec. 40A.

dent determines that the transaction is important to the national interests of the United States.

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CHAPTER 7—CONTROL OF MISSILES AND MISSILE EQUIPMENT OR TECHNOLOGY[9]

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Sec. 72.[10] Denial of the Transfer of Missile Equipment or Technology by United States Persons.

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(c)[11] PRESUMPTION.—In determining whether to apply sanctions under subsection (a) to a United States person involved in the export, transfer, or trade of an item on the MTCR Annex, it should be a rebuttable presumption that such item is designed for use in a missile listed in the MTCR Annex if the President determines that the final destination of the item is a country the government of which the Secretary of State has determined, for purposes of 6(j)(1)(A) of the Export Administration Act of 1979, has repeatedly provided support for acts of international terrorism.

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Sec. 73.[12] Transfers of Missile Equipment or Technology by Foreign Persons.

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(f)[13] PRESUMPTION.—In determining whether to apply sanctions under subsection (a) to a foreign person involved in the export, transfer, or trade of an item on the MTCR Annex, it should be a rebuttable presumption that such item is designed for use in a missile listed in the MTCR Annex if the President determines that the final destination of the item is a country the government of which the Secretary of State has determined, for purposes of 6(j)(1)(A) of the Export Administration Act of 1979, has repeatedly provided support for acts of international terrorism.

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[9] Sec. 1703 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1745) added chapter 7, secs. 71–74.

[10] 22 U.S.C. 2797a.

[11] Sec. 734(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 505), added subsec. (c).

[12] 22 U.S.C. 2797b.

[13] Sec. 734(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 505), added subsec. (f).

3. Iran and Libya Sanctions Act of 1996

Public Law 104–172 [H.R. 3107], 110 Stat. 1541, approved August 5, 1996

AN ACT To impose sanctions on persons making certain investments directly and significantly contributing to the enhancement of the ability of Iran or Libya to develop its petroleum resources, and on persons exporting certain items that enhance Libya's weapons or aviation capabilities or enhance Libya's ability to develop its petroleum resources, 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 "Iran and Libya Sanctions Act of 1996".

SEC. 2.[1] FINDINGS.

The Congress makes the following findings:

(1) The efforts of the Government of Iran to acquire weapons of mass destruction and the means to deliver them and its support of acts of international terrorism endanger the national security and foreign policy interests of the United States and those countries with which the United States shares common strategic and foreign policy objectives.

(2) The objective of preventing the proliferation of weapons of mass destruction and acts of international terrorism through existing multilateral and bilateral initiatives requires additional efforts to deny Iran the financial means to sustain its nuclear, chemical, biological, and missile weapons programs.

(3) The Government of Iran uses its diplomatic facilities and quasi-governmental institutions outside of Iran to promote acts of international terrorism and assist its nuclear, chemical, biological, and missile weapons programs.

(4) The failure of the Government of Libya to comply with Resolutions 731, 748, and 883 of the Security Council of the United Nations, its support of international terrorism, and its efforts to acquire weapons of mass destruction constitute a threat to international peace and security that endangers the national security and foreign policy interests of the United States and those countries with which it shares common strategic and foreign policy objectives.

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[1] 50 U.S.C. 1701 note. In a memorandum of November 21, 1996 (61 F.R. 64249), the President made the following delegations of authority under this Act:

". . . I hereby delegate to the Secretary of State the functions vested in the President by the following provisions of the Iran and Libya Sanctions Act of 1996 (Public Law 104–172) ('the Act'), such functions to be exercised in consultation with the Departments of the Treasury and Commerce and the United States Trade Representative, and with the Export-Import Bank and the Federal Reserve Board and other interested agencies as appropriate: sections 4(c), 5(a), 5(b), 5(c), 5(f), 6(1), 6(2), and 9(c). I hereby delegate to the Secretary of State the functions vested in the President by the following provisions of the Act: sections 4(a), 4(b), 4(d), 4(e), 5(d), 5(e), 9(a), 9(b), and 10. * * * The following functions vested in the President by the following provisions of the Act delegated by this memorandum may be redelegated: 4(a), 4(b), 4(d), 4(e), 4(d), 5(e), and 10. All other functions delegated by this memorandum may not be redelegated.".

SEC. 3.[1] DECLARATION OF POLICY.

(a) POLICY WITH RESPECT TO IRAN.—The Congress declares that it is the policy of the United States to deny Iran the ability to support acts of international terrorism and to fund the development and acquisition of weapons of mass destruction and the means to deliver them by limiting the development of Iran's ability to explore for, extract, refine, or transport by pipeline petroleum resources of Iran.

(b) POLICY WITH RESPECT TO LIBYA.—The Congress further declares that it is the policy of the United States to seek full compliance by Libya with its obligations under Resolutions 731, 748, and 883 of the Security Council of the United Nations, including ending all support for acts of international terrorism and efforts to develop or acquire weapons of mass destruction.

SEC. 4.[1] MULTILATERAL REGIME.

(a) MULTILATERAL NEGOTIATIONS.—In order to further the objectives of section 3, the Congress urges the President to commence immediately diplomatic efforts, both in appropriate international fora such as the United Nations, and bilaterally with allies of the United States, to establish a multilateral sanctions regime against Iran, including provisions limiting the development of petroleum resources, that will inhibit Iran's efforts to carry out activities described in section 2.

(b) REPORTS TO CONGRESS.—The President shall report to the appropriate congressional committees, not later than 1 year after the date of the enactment of this Act, and periodically thereafter, on the extent that diplomatic efforts described in subsection (a) have been successful. Each report shall include—

(1) the countries that have agreed to undertake measures to further the objectives of section 3 with respect to Iran, and a description of those measures; and

(2) the countries that have not agreed to measures described in paragraph (1), and, with respect to those countries, other measures (in addition to that provided in subsection (d)) the President recommends that the United States take to further the objectives of section 3 with respect to Iran.

(c) WAIVER.—The President may waive the application of section 5(a) with respect to nationals of a country if—

(1) that country has agreed to undertake substantial measures, including economic sanctions, that will inhibit Iran's efforts to carry out activities described in section 2 and information required by subsection (b)(1) has been included in a report submitted under subsection (b); and

(2) the President, at least 30 days before the waiver takes effect, notifies the appropriate congressional committees of his intention to exercise the waiver.

(d) ENHANCED SANCTION.—

(1) SANCTION.—With respect to nationals of countries except those with respect to which the President has exercised the waiver authority of subsection (c), at any time after the first report is required to be submitted under subsection (b), section 5(a) shall be applied by substituting "$20,000,000" for "$40,000,000" each place it appears, and by substituting "$5,000,000" for "$10,000,000".

(2) REPORT TO CONGRESS.—The President shall report to the appropriate congressional committees any country with respect to which paragraph (1) applies.

(e) INTERIM REPORT ON MULTILATERAL SANCTIONS; MONITORING.—The President, not later than 90 days after the date of the enactment of this Act, shall report to the appropriate congressional committees on—

(1) whether the member states of the European Union, the Republic of Korea, Australia, Israel, or Japan have legislative or administrative standards providing for the imposition of trade sanctions on persons or their affiliates doing business or having investments in Iran or Libya;

(2) the extent and duration of each instance of the application of such sanctions; and

(3) the disposition of any decision with respect to such sanctions by the World Trade Organization or its predecessor organization.

SEC. 5.[1] IMPOSITION OF SANCTIONS.

(a) SANCTIONS WITH RESPECT TO IRAN.—Except as provided in subsection (f), the President shall impose 2 or more of the sanctions described in paragraphs (1) through (6) of section 6 if the President determines that a person has, with actual knowledge, on or after the date of the enactment of this Act, made an investment of $40,000,000 or more (or any combination of investments of at least $10,000,000 each, which in the aggregate equals or exceeds $40,000,000 in any 12–month period), that directly and significantly contributed to the enhancement of Iran's ability to develop petroleum resources of Iran.

(b) MANDATORY SANCTIONS WITH RESPECT TO LIBYA.—

(1) VIOLATIONS OF PROHIBITED TRANSACTIONS.—Except as provided in subsection (f), the President shall impose 2 or more of the sanctions described in paragraphs (1) through (6) of section 6 if the President determines that a person has, with actual knowledge, on or after the date of the enactment of this Act, exported, transferred, or otherwise provided to Libya any goods, services, technology, or other items the provision of which is prohibited under paragraph 4(b) or 5 of Resolution 748 of the Security Council of the United Nations, adopted March 31, 1992, or under paragraph 5 or 6 of Resolution 883 of the Security Council of the United Nations, adopted November 11, 1993, if the provision of such items significantly and materially—

(A) contributed to Libya's ability to acquire chemical, biological, or nuclear weapons or destabilizing numbers and types of advanced conventional weapons or enhanced Libya's military or paramilitary capabilities;

(B) contributed to Libya's ability to develop its petroleum resources; or

(C) contributed to Libya's ability to maintain its aviation capabilities.

(2) INVESTMENTS THAT CONTRIBUTE TO THE DEVELOPMENT OF PETROLEUM RESOURCES.—Except as provided in subsection (f), the President shall impose 2 or more of the sanctions described in paragraphs (1) through (6) of section 6 if the President de-

termines that a person has, with actual knowledge, on or after the date of the enactment of this Act, made an investment of $40,000,000 or more (or any combination of investments of at least $10,000,000 each, which in the aggregate equals or exceeds $40,000,000 in any 12–month period), that directly and significantly contributed to the enhancement of Libya's ability to develop its petroleum resources.

(c) PERSONS AGAINST WHICH THE SANCTIONS ARE TO BE IMPOSED.—The sanctions described in subsections (a) and (b) shall be imposed on—

(1) any person the President determines has carried out the activities described in subsection (a) or (b); and

(2) any person the President determines—

(A) is a successor entity to the person referred to in paragraph (1);

(B) is a parent or subsidiary of the person referred to in paragraph (1) if that parent or subsidiary, with actual knowledge, engaged in the activities referred to in paragraph (1); or

(C) is an affiliate of the person referred to in paragraph (1) if that affiliate, with actual knowledge, engaged in the activities referred to in paragraph (1) and if that affiliate is controlled in fact by the person referred to in paragraph (1).

For purposes of this Act, any person or entity described in this subsection shall be referred to as a "sanctioned person".

(d) PUBLICATION IN FEDERAL REGISTER.—The President shall cause to be published in the Federal Register a current list of persons and entities on whom sanctions have been imposed under this Act. The removal of persons or entities from, and the addition of persons and entities to, the list, shall also be so published.

(e) PUBLICATION OF PROJECTS.[2]—The President shall cause to be published in the Federal Register a list of all significant projects which have been publicly tendered in the oil and gas sector in Iran.

(f) EXCEPTIONS.—The President shall not be required to apply or maintain the sanctions under subsection (a) or (b)—

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(B) if the President determines in writing that the person to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(C) if the President determines in writing that such articles or services are essential to the national security under defense coproduction agreements;

[2] The Department of State published such a list in Public Notice No. 2501, January 2, 1997 (62 F.R. 1141).

(2) in the case of procurement, to eligible products, as defined in section 308(4) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)), of any foreign country or instrumentality designated under section 301(b)(1) of that Act (19 U.S.C. 2511(b)(1));

(3) to products, technology, or services provided under contracts entered into before the date on which the President publishes in the Federal Register the name of the person on whom the sanctions are to be imposed;

(4) to—

(A) spare parts which are essential to United States products or production;

(B) component parts, but not finished products, essential to United States products or production; or

(C) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(6) to information and technology essential to United States products or production; or

(7) to medicines, medical supplies, or other humanitarian items.

SEC. 6.[1] DESCRIPTION OF SANCTIONS.

The sanctions to be imposed on a sanctioned person under section 5 are as follows:

(1) EXPORT-IMPORT BANK ASSISTANCE FOR EXPORTS TO SANCTIONED PERSONS.—The President may direct the Export-Import Bank of the United States not to give approval to the issuance of any guarantee, insurance, extension of credit, or participation in the extension of credit in connection with the export of any goods or services to any sanctioned person.

(2) EXPORT SANCTION.—The President may order the United States Government not to issue any specific license and not to grant any other specific permission or authority to export any goods or technology to a sanctioned person under—

(i) the Export Administration Act of 1979;

(ii) the Arms Export Control Act;

(iii) the Atomic Energy Act of 1954; or

(iv) any other statute that requires the prior review and approval of the United States Government as a condition for the export or reexport of goods or services.

(3) LOANS FROM UNITED STATES FINANCIAL INSTITUTIONS.—The United States Government may prohibit any United States financial institution from making loans or providing credits to any sanctioned person totaling more than $10,000,000 in any 12–month period unless such person is engaged in activities to relieve human suffering and the loans or credits are provided for such activities.

(4) PROHIBITIONS ON FINANCIAL INSTITUTIONS.—The following prohibitions may be imposed against a sanctioned person that is a financial institution:

(A) PROHIBITION ON DESIGNATION AS PRIMARY DEALER.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designa-

tion of, such financial institution as a primary dealer in United States Government debt instruments.

(B) PROHIBITION ON SERVICE AS A REPOSITORY OF GOVERNMENT FUNDS.—Such financial institution may not serve as agent of the United States Government or serve as repository for United States Government funds.

The imposition of either sanction under subparagraph (A) or (B) shall be treated as 1 sanction for purposes of section 5, and the imposition of both such sanctions shall be treated as 2 sanctions for purposes of section 5.

(5) PROCUREMENT SANCTION.—The United States Government may not procure, or enter into any contract for the procurement of, any goods or services from a sanctioned person.

(6) ADDITIONAL SANCTIONS.—The President may impose sanctions, as appropriate, to restrict imports with respect to a sanctioned person, in accordance with the International Emergency Economic Powers Act (50 U.S.C. 1701 and following).

SEC. 7.[1] ADVISORY OPINIONS.

The Secretary of State may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this Act. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, will not be made subject to such sanctions on account of such activity.

SEC. 8.[1] TERMINATION OF SANCTIONS.

(a) IRAN.—The requirement under section 5(a) to impose sanctions shall no longer have force or effect with respect to Iran if the President determines and certifies to the appropriate congressional committees that Iran—

(1) has ceased its efforts to design, develop, manufacture, or acquire—

(A) a nuclear explosive device or related materials and technology;

(B) chemical and biological weapons; and

(C) ballistic missiles and ballistic missile launch technology; and

(2) has been removed from the list of countries the governments of which have been determined, for purposes of section 6(j) of the Export Administration Act of 1979, to have repeatedly provided support for acts of international terrorism.

(b) LIBYA.—The requirement under section 5(b) to impose sanctions shall no longer have force or effect with respect to Libya if the President determines and certifies to the appropriate congressional committees that Libya has fulfilled the requirements of United Nations Security Council Resolution 731, adopted January 21, 1992, United Nations Security Council Resolution 748, adopted March 31, 1992, and United Nations Security Council Resolution 883, adopted November 11, 1993.

SEC. 9.[1] DURATION OF SANCTIONS; PRESIDENTIAL WAIVER.

(a) DELAY OF SANCTIONS.—

(1) CONSULTATIONS.—If the President makes a determination described in section 5(a) or 5(b) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions under this Act.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue consultations under paragraph (1) with the government concerned, the President may delay imposition of sanctions under this Act for up to 90 days. Following such consultations, the President shall immediately impose sanctions unless the President determines and certifies to the Congress that the government has taken specific and effective actions, including, as appropriate, the imposition of appropriate penalties, to terminate the involvement of the foreign person in the activities that resulted in the determination by the President under section 5(a) or 5(b) concerning such person.

(3) ADDITIONAL DELAY IN IMPOSITION OF SANCTIONS.—The President may delay the imposition of sanctions for up to an additional 90 days if the President determines and certifies to the Congress that the government with primary jurisdiction over the person concerned is in the process of taking the actions described in paragraph (2).

(4) REPORT TO CONGRESS.—Not later than 90 days after making a determination under section 5(a) or 5(b), the President shall submit to the appropriate congressional committees a report on the status of consultations with the appropriate foreign government under this subsection, and the basis for any determination under paragraph (3).

(b) DURATION OF SANCTIONS.—A sanction imposed under section 5 shall remain in effect—

(1) for a period of not less than 2 years from the date on which it is imposed; or

(2) until such time as the President determines and certifies to the Congress that the person whose activities were the basis for imposing the sanction is no longer engaging in such activities and that the President has received reliable assurances that such person will not knowingly engage in such activities in the future, except that such sanction shall remain in effect for a period of at least 1 year.

(c) PRESIDENTIAL WAIVER.—

(1) AUTHORITY.—The President may waive the requirement in section 5 to impose a sanction or sanctions on a person described in section 5(c), and may waive the continued imposition of a sanction or sanctions under subsection (b) of this section, 30 days or more after the President determines and so reports to the appropriate congressional committees that it is important to the national interest of the United States to exercise such waiver authority.

(2) CONTENTS OF REPORT.—Any report under paragraph (1) shall provide a specific and detailed rationale for the determination under paragraph (1), including—

(A) a description of the conduct that resulted in the determination under section 5(a) or (b), as the case may be;

(B) in the case of a foreign person, an explanation of the efforts to secure the cooperation of the government with primary jurisdiction over the sanctioned person to terminate or, as appropriate, penalize the activities that resulted in the determination under section 5(a) or (b), as the case may be;

(C) an estimate as to the significance—

(i) of the provision of the items described in section 5(a) to Iran's ability to develop its petroleum resources, or

(ii) of the provision of the items described in section 5(b)(1) to the abilities of Libya described in subparagraph (A), (B), or (C) of section 5(b)(1), or of the investment described in section 5(b)(2) on Libya's ability to develop its petroleum resources, as the case may be; and

(D) a statement as to the response of the United States in the event that the person concerned engages in other activities that would be subject to section 5(a) or (b).

(3) EFFECT OF REPORT ON WAIVER.—If the President makes a report under paragraph (1) with respect to a waiver of sanctions on a person described in section 5(c), sanctions need not be imposed under section 5(a) or (b) on that person during the 30–day period referred to in paragraph (1).

SEC. 10.[1] REPORTS REQUIRED.

(a) REPORT ON CERTAIN INTERNATIONAL INITIATIVES.—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the President shall transmit a report to the appropriate congressional committees describing—

(1) the efforts of the President to mount a multilateral campaign to persuade all countries to pressure Iran to cease its nuclear, chemical, biological, and missile weapons programs and its support of acts of international terrorism;

(2) the efforts of the President to persuade other governments to ask Iran to reduce the presence of Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran and to withdraw any such diplomats or representatives who participated in the takeover of the United States embassy in Tehran on November 4, 1979, or the subsequent holding of United States hostages for 444 days;

(3) the extent to which the International Atomic Energy Agency has established regular inspections of all nuclear facilities in Iran, including those presently under construction; and

(4) Iran's use of Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran to promote acts of international terrorism or to develop or sustain Iran's nuclear, chemical, biological, and missile weapons programs.

(b) OTHER REPORTS.—The President shall ensure the continued transmittal to the Congress of reports describing—

(1) the nuclear and other military capabilities of Iran, as required by section 601(a) of the Nuclear Non-Proliferation Act

of 1978 and section 1607 of the National Defense Authorization Act for Fiscal Year 1993; and

(2) the support provided by Iran for acts of international terrorism, as part of the Department of State's annual report on international terrorism.

SEC. 11.[1] DETERMINATIONS NOT REVIEWABLE.

A determination to impose sanctions under this Act shall not bereviewable in any court.

SEC. 12.[1] EXCLUSION OF CERTAIN ACTIVITIES.

Nothing in this Act shall apply to any activities subject to the reporting requirements of title V of the National Security Act of 1947.

SEC. 13.[1] EFFECTIVE DATE; SUNSET.

(a) EFFECTIVE DATE.—This Act shall take effect on the date of the enactment of this Act.

(b) SUNSET.—This Act shall cease to be effective on the date that is 5 years after the date of the enactment of this Act.

SEC. 14.[1] DEFINITIONS.

As used in this Act:

(1) ACT OF INTERNATIONAL TERRORISM.—The term "act of international terrorism" means an act—

(A) which is violent or dangerous to human life and that is a violation of the criminal laws of the United States or of any State or that would be a criminal violation if committed within the jurisdiction of the United States or any State; and

(B) which appears to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Foreign Relations of the Senate and the Committee on Ways and Means, the Committee on Banking and Financial Services, and the Committee on International Relations of the House of Representatives.

(3) COMPONENT PART.—The term "component part" has the meaning given that term in section 11A(e)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2410a(e)(1)).

(4) DEVELOP AND DEVELOPMENT.—To "develop", or the "development" of, petroleum resources means the exploration for, or the extraction, refining, or transportation by pipeline of, petroleum resources.

(5) FINANCIAL INSTITUTION.—The term "financial institution" includes—

(A) a depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act), including a branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978);

(B) a credit union;

(C) a securities firm, including a broker or dealer;

(D) an insurance company, including an agency or underwriter; and

(E) any other company that provides financial services.

(6) FINISHED PRODUCT.—The term "finished product" has the meaning given that term in section 11A(e)(2) of the Export Administration Act of 1979 (50 U.S.C. App. 2410a(e)(2)).

(7) FOREIGN PERSON.—The term "foreign person" means—

(A) an individual who is not a United States person or an alien lawfully admitted for permanent residence into the United States; or

(B) a corporation, partnership, or other nongovernmental entity which is not a United States person.

(8) GOODS AND TECHNOLOGY.—The terms "goods" and "technology" have the meanings given those terms in section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415).

(9) INVESTMENT.—The term "investment" means any of the following activities if such activity is undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that is entered into with the Government of Iran or a nongovenmental entity in Iran, or with the Government of Libya or a nongovernmental entity in Libya, on or after the date of the enactment of this Act:

(A) The entry into a contract that includes responsibility for the development of petroleum resources located in Iran or Libya (as the case may be), or the entry into a contract providing for the general supervision and guarantee of another person's performance of such a contract.

(B) The purchase of a share of ownership, including an equity interest, in that development.

(C) The entry into a contract providing for the participation in royalties, earnings, or profits in that development, without regard to the form of the participation.

The term "investment" does not include the entry into, performance, or financing of a contract to sell or purchase goods, services, or technology.

(10) IRAN.—The term "Iran" includes any agency or instrumentality of Iran.

(11) IRANIAN DIPLOMATS AND REPRESENTATIVES OF OTHER GOVERNMENT AND MILITARY OR QUASI-GOVERNMENTAL INSTITUTIONS OF IRAN.—The term "Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran" includes employees, representatives, or affiliates of Iran's—

(A) Foreign Ministry;

(B) Ministry of Intelligence and Security;

(C) Revolutionary Guard Corps;

(D) Crusade for Reconstruction;

(E) Qods (Jerusalem) Forces;

(F) Interior Ministry;

(G) Foundation for the Oppressed and Disabled;

(H) Prophet's Foundation;

(I) June 5th Foundation;

(J) Martyr's Foundation;

(K) Islamic Propagation Organization; and

(L) Ministry of Islamic Guidance.

(12) LIBYA.—The term "Libya" includes any agency or instrumentality of Libya.

(13) NUCLEAR EXPLOSIVE DEVICE.—The term "nuclear explosive device" means any device, whether assembled or disassembled, that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material (as defined in section 11(aa) of the Atomic Energy Act of 1954) that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT).

(14) PERSON.—The term "person" means—

(A) a natural person;

(B) a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise; and

(C) any successor to any entity described in subparagraph (B).

(15) PETROLEUM RESOURCES.—The term "petroleum resources" includes petroleum and natural gas resources.

(16) UNITED STATES OR STATE.—The term "United States" or "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the United States Virgin Islands, and any other territory or possession of the United States.

(17) UNITED STATES PERSON.—The term "United States person" means—

(A) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States; and

(B) a corporation or other legal entity which is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if natural persons described in subparagraph (A) own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity.

4. Iran-Iraq Arms Nonproliferation Act of 1992

Partial text of Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992, as amended

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

SEC. 1601.[1] 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,[2] 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).

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 Gov-

[1] 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).

[2] For text of chapter 7 of the Arms Export Control Act, see section A.2 of this publication.

[3] For text, see sec. A.7 of this publication.

ernment 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.

(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

[4] Sec. 1408(a) of Public Law 104–106 (110 Stat. 494) inserted "to acquire chemical, biological, or nuclear weapons or" before "to acquire".

[5] Sec. 1408(b) of Public Law 104–106 (110 Stat. 494) inserted "to acquire chemical, biological, or nuclear weapons or" before "to acquire".

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 of the House of Representatives[6] 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 Services and Foreign Affairs of the House of Representatives[6] 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

[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 shall be treated as referring to the Committee on International Relations.

(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 of the House of Representatives [6] 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 Public Law 104–106 (110 Stat. 494) amended and restated subpara. (A), which 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);".

5. International Security and Development Cooperation Act of 1985

Partial text of Public Law 99–83 [S. 960], 99 Stat. 190, approved August 8, 1985 as amended

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,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "International Security and Development Cooperation Act of 1985".

* * * * * * *

TITLE V—INTERNATIONAL TERRORISM AND FOREIGN AIRPORT SECURITY [1]

PART A—INTERNATIONAL TERRORISM GENERALLY

SEC. 501. * * *

SEC. 502. COORDINATION OF ALL UNITED STATES TERRORISM-RELATED ASSISTANCE TO FOREIGN COUNTRIES.

(a) COORDINATION.—The Secretary of State shall be responsible for coordinating all assistance related to international terrorism which is provided by the United States Government.

(b) REPORTS.—Not later than February 1 each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance related to international terrorism which was provided by the United States Government during the preceding fiscal year. Such reports may be provided on a classified basis to the extent necessary, and shall specify the amount and nature of the assistance provided.

(c) RULE OF CONSTRUCTION.—Nothing contained in this section shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.[2]

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[1] See Section F for the text of legislation on foreign airport security.

[2] For text, see U.S. Congress. House. Committee on International Relations. *Legislation on Foreign Relations Through 1996*, (Washington, G.P.O., 1997), vol. II, sec. D.

SEC. 503.[3] PROHIBITION ON ASSISTANCE TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM. * * *

SEC. 504. PROHIBITION ON IMPORTS FROM AND EXPORTS TO LIBYA.

(a) PROHIBITION ON IMPORTS.—Notwithstanding any other provision of law, the President may prohibit any article grown, produced, extracted, or manufactured in Libya from being imported into the United States.

(b) PROHIBITION ON EXPORTS.—Notwithstanding any other provision of law, the President may prohibit any goods or technology, including technical data or other information, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, from being exported to Libya.

(c) DEFINITION.—For purposes of this section, the term "United States", when used in a geographical sense, includes territories and possessions of the United States.

SEC. 505.[4] BAN ON IMPORTING GOODS AND SERVICES FROM COUNTRIES SUPPORTING TERRORISM.

(a) AUTHORITY.—The President may ban the importation into the United States of any good or service from any country which supports terrorism or terrorist organizations or harbors terrorist or terrorist organizations.

(b) CONSULTATION.—The President, in every possible instance, shall consult with the Congress before exercising the authority granted by this section and shall consult regularly with the Congress so long as that authority is being exercised.

(c) REPORTS.—Whenever the President exercises the authority granted by this section, he shall immediately transmit to the Congress a report specifying—

(1) The country with respect to which the authority is to be exercised and the imports to be prohibited;

(2) the circumstances which necessitate the exercise of such authority;

(3) why the President believes those circumstances justify the exercise of such authority; and

(4) why the President believes the prohibitions are necessary to deal with those circumstances.

At least once during each succeeding 6-month period after transmitting a report pursuant to this subsection, the President shall report to the Congress with respect to the actions taken, since the last such report, pursuant to this section and with respect to any changes which have occurred concerning any information previously furnished pursuant to this subsection.

(d) DEFINITION.—For purposes of this section, the term "United States" includes territories and possessions of the United States.

SEC. 506. INTERNATIONAL ANTI-TERRORISM COMMITTEE.

The Congress calls upon the President to seek the establishment of an international committee, to be known as the International Anti-Terrorism Committee, consisting of representatives of the member countries of the North Atlantic Treaty Organization, Japan, and such other countries as may be invited and may choose

[3] Sec. 503(a) amended sec. 620A of the FAA of 1961. Sec. 503(b) amended sec. 3(f) of the AECA.

[4] 22 U.S.C. 2349aa–9.

to participate. The purpose of the Committee should be to focus the attention and secure the cooperation of the governments and the public of the participating countries and of other countries on the problems and responses to international terrorism, by serving as a forum at both the political and law enforcement levels.

SEC. 507. INTERNATIONAL TERRORISM CONTROL TREATY.

It is the sense of the Congress that the President should establish a process by which democratic and open societies of the world, which are those most plagued by terrorism, negotiate a viable treaty to effectively prevent and respond to terrorist attacks. Such a treaty should incorporate an operative definition of terrorism, and should establish effective close intelligence-sharing, joint counterterrorist training, and uniform laws on asylum, extradition, and swift punishment for perpetrators of terrorism. Parties to such a treaty should include, but not be limited to, those democratic nations who are most victimized by terrorism.

SEC. 508. STATE TERRORISM.

It is sense of the Congress that all civilized nations should firmly condemn the increasing use of terrorism by certain states as an official instrument for promoting their policy goals, as evidenced by such examples as the brutal assassination of Major Arthur D. Nicholson, Junior, by a member of the Soviet armed forces.

PART B—FOREIGN AIRPORT SECURITY

SEC. 551. SECURITY STANDARDS FOR FOREIGN AIR TRANSPORTATION.

(a)[5] SECURITY AT FOREIGN AIRPORTS.—* * * [Repealed—1994]

(b) CONFORMING AMENDMENTS.—* * * [Repealed—1994]

(c) CLOSING OF BEIRUT INTERNATIONAL AIRPORT.—It is the sense of the Congress that the President is urged and encouraged to take all appropriate steps to carry forward his announced policy of seeking the effective closing of the international airport in Beirut, Lebanon, at least until such time as the Government of Lebanon has instituted measures and procedures designed to prevent the use of that airport by aircraft hijackers and other terrorists in attacking civilian airlines or their passengers, hijacking their aircraft, or taking or holding their passengers hostage.

SEC. 552.[6] * * * [Repealed—1994]

SEC. 553.[7] * * * [Repealed—1994]

SEC. 554. ENFORCEMENT OF INTERNATIONAL CIVIL AVIATION ORGANIZATION STANDARDS.

The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to enforce that Organization's existing standards and to support United States actions enforcing such standards.

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[5] Sec. 7(b) of Public Law 103–272 (108 Stat. 1379) repealed sec. 551(a) and (b), which enacted an amendment to sec. 1115 of the Federal Aviation Act of 1958, and related amendments, concerning security standards in foreign air transportation, codified at 49 U.S.C. App. 1515.

[6] Formerly at 49 U.S.C. app. 1515a. Sec. 552, relating to travel advisories and suspension of foreign assistance, was repealed by sec. 7(b) of Public Law 103–272 (108 Stat. 1379).

[7] Formerly at 49 U.S.C. app. 1356b. Sec. 553, relating to the United States airmarshal program, was repealed by sec. 7(b) of Public Law 103–272 (108 Stat. 1379).

SEC. 555. INTERNATIONAL CIVIL AVIATION BOYCOTT OF COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

It is the sense of the Congress that the President—

(1) should call for an international civil aviation boycott with respect to those countries which the President determines—

(A) grant sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(B) otherwise support international terrorism; and

(2) should take steps, both bilateral and multilateral, to achieve a total international civil aviation boycott with respect to those countries.

SEC. 556.[8] * * * [Repealed—1994]

SEC. 557. RESEARCH ON AIRPORT SECURITY TECHNIQUES FOR DETECTING EXPLOSIVES.

In order to improve security at international airports, there are authorized to be appropriated to the Secretary of Transportation from the Airport and Airway Trust Fund (in addition to amounts otherwise available for such purpose) $5,000,000, without fiscal year limitation, to be used for research on and the development of airport security devices or techniques for detecting explosives.

SEC. 558. HIJACKING OF TWA FLIGHT 847 AND OTHER ACTS OF TERRORISM.

The Congress joins with all Americans in celebrating the release of the hostages taken from Trans World Airlines flight 847. It is the sense of the Congress that—

(1) purser Uli Derickson, pilot John Testrake, co-pilot Philip Maresca, flight engineer Benjamin Zimmermann, and the rest of the crew of Trans World Airlines flight 847 displayed extraordinary valor and heroism during the hostages' ordeal and therefore should be commended;

(2) the hijackers who murdered United States Navy Petty Officer Stethem should be immediately brought to justice;

(3) all diplomatic means should continue to be employed to obtain the release of the 7 United States citizens previously kidnapped and still held in Lebanon;

(4) acts of international terrorism should be universally condemned; and

(5) the Secretary of State should be supported in his efforts to gain international cooperation to prevent future acts of terrorism.

[8] Formerly 49 U.S.C. app. 1515 note. Sec. 556, relating to multilateral and bilateral agreements with respect to aircraft sabotage, aircraft hijacking, and airport security, was repealed by sec. 7(b) of Public Law 103–272 (108 Stat. 1379).

SEC. 559. * * *

TITLE XIII—MISCELLANEOUS PROVISIONS

SEC. 1301. * * *

SEC. 1302.[9] CODIFICATION OF POLICY PROHIBITING NEGOTIATIONS WITH THE PALESTINE LIBERATION ORGANIZATION

(a) UNITED STATES POLICY.—The United States in 1975 declared in a memorandum of agreement with Israel, and has reaffirmed since, that "The United States will continue to adhere to its present policy with respect to the Palestine Liberation Organization, whereby it will not recognize or negotiate with the Palestine Liberation Organization so long as the Palestine Liberation Organization does not recognize Israel's right to exist and does not accept Security Council Resolutions 242 and 338.".

(b) REAFFIRMATION AND CODIFICATION OF POLICY.—The United States hereby reaffirms that policy. In accordance with that policy, no officer or employee of the United States Government and no agent or other individual acting on behalf of the United States Government shall negotiate with the Palestine Liberation Organization or any representatives thereof (except in emergency or humanitarian situations) unless and until the Palestine Liberation Organization recognizes Israel's right to exist, accepts United Nations Security Council Resolutions 242 and 338 and renounces the use of terrorism, except that no funds authorized to be appropriated by this or any other Act may be obligated or made available for the conduct of the current dialogue on the Middle East process with any representative of the Palestine Liberation Organization if the President knows and advises the Congress that the representative directly participated in the planning or execution of a particular terrorist activity which resulted in the death or kidnapping of a United States citizen.

* * * * * * *

[9] 22 U.S.C. 2151 note. Sec. 531 of the Foreign Assistance Appropriations Act, 1986 (Sec. 101(i) of Public Law 99–190; 99 Stat. 1307), provided the following:

"In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.". Sec. 530 of the Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of Public Law 99–591; 100 Stat. 3341–231) contained identical language.

Sec. 527 of the Foreign Assistance and Related Agencies Appropriations Act 1987 (see. 101(f) of Public Law 99–591; 100 Stat. 3341–230) provided:

"Notwithstanding any other provision of law or this Act, none of the funds provided for "International organizations and programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization, the Southwest African Peoples Organization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended.".

6. International Security and Development Cooperation Act of 1981

Partial text of Public Law 97–113 [S. 1196], 95 Stat. 1519, approved December 29, 1981, as amended

AN ACT To authorize appropriations for the fiscal years 1982 and 1983 for international security and development assistance and for the Peace Corps, to establish the Peace Corps as an autonomous agency, 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 "International Security and Development Cooperation Act of 1981".

* * * * * * *

TITLE VII—MISCELLANEOUS PROVISIONS

* * * * * * *

CONDEMNATION OF LIBYA FOR ITS SUPPORT OF INTERNATIONAL TERRORIST MOVEMENTS

Sec. 718. (a) The Congress condemns the Libyan Government for its support of international terrorist movements, its efforts to obstruct positive movement toward the peaceful resolution of problems in the Middle East region, and its actions to destabilize and control governments of neighboring states in Africa.

(b) The Congress believes that the President should conduct an immediate review of concrete steps the United States could take, individually and in concert with its allies, to bring economic and political pressure on Libya to cease such activities, and should submit a report on that review to the Congress within one hundred and eighty days after the date of enactment of this Act. Such a review should include the possibility of tariffs on or prohibitions against the import of crude oil from Libya.

UNITED STATES CITIZENS ACTING IN THE SERVICE OF INTERNATIONAL TERRORISM

Sec. 719. (a) It is the sense of the Congress that the spread of international terrorism poses a grave and growing danger for world peace and for the national security of the United States. As a part of its vigorous opposition to the activities of international terrorist leaders and the increase of international terrorism, the United States should take all steps necessary to ensure that no United States citizen is acting in the service of terrorism or of the proponents of terrorism.

(b) * * *

* * * * * * *

7. 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".

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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 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.— * * *

(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) 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 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) * * *

(B) * * *

(C) does not provide support for international terrorism;

* * * * * * *

(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) * * *

(B) * * *

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

(D) * * *

(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.

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8. 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".

* * * * * * *

SEC. 2. ECONOMIC ASSISTANCE AND ADMINISTRATION OF JUSTICE PROGRAMS FOR ANDEAN COUNTRIES.

(a) * * *

(b) ADMINISTRATION OF JUSTICE PROGRAMS.—

(1) ADDITIONAL ASSISTANCE FOR BOLIVIA, COLOMBIA, AND PERU.— * * *

(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.

* * * * * * *

[1] 22 U.S.C. 2151 note.

9. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999

Partial text of section 101(d) of Division A of Public Law 105–277 [H.R. 4328], 112 Stat. 2681, approved October 21, 1998

(d) For programs, projects or activities in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1999, and for other purposes.

* * * * * * *

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1999, unless otherwise specified herein, as follows:

* * * * * * *

DEPARTMENT OF STATE

* * * * * * *

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For necessary expenses for nonproliferation, anti-terrorism and related programs and activities, $198,000,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, section 504 of the FREEDOM Support Act for the Nonproliferation and Disarmament Fund, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA) and a voluntary contribution to the Korean Peninsula Energy Development Organization (KEDO), and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided,* That the Secretary of State shall inform the Committees on Appropriations at least twenty days prior to the obligation of funds for the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided further*, That of this amount not to exceed $15,000,000, to re-

main available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided further*, That such funds may also be used for such countries other than the New Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: *Provided further*, That such funds shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That of the funds appropriated under this heading not less than $35,000,000 should be made available for demining, clearance of unexploded ordnance, and related activities: *Provided further,* That of the funds made available for demining and related activities, not to exceed $500,000, in addition to funds otherwise available for such purposes, may be used for expenses related to the operation and management of the demining program: *Provided further*, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency.

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TITLE V—GENERAL PROVISIONS

* * * * * * *

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 528.[1] (a) Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to enactment of this Act, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least fifteen days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

* * * * * * *

[1] Sec. 576 of the Foreign Assistance Appropriations Act, 1988, first enacted a "Prohibition on Bilateral Assistance to Terrorist Countries". Sec. 564 of the Foreign Assistance Appropriations Act, 1990, substantially reworded this prohibition, providing the criteria for restriction, and the requirement for Presidential determination and waiver.

See also sec. 620A of the Foreign Assistance Act of 1961, sec. 40 of the Arms Export Control Act (this volume), and sec. 6(j) of the Export Administration Act (Sec. E, this volume).

SPECIAL AUTHORITIES

SEC. 540. (a) * * *

* * * * * * *

(d)[2] (1) WAIVER.—The President may waive the provisions of section 1003 of Public Law 100–204 if the President determines and certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that it is important to the national security interests of the United States.

(2) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to paragraph (1) shall be effective for no more than a period of six months at a time and shall not apply beyond twelve months after enactment of this Act.

* * * * * * *

ELIGIBILITY FOR ASSISTANCE

SEC. 543.[3] (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1, 10, and 11 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and from funds appropriated under the heading "Assistance for Eastern Europe and the Baltic States": *Provided,* That the President shall take into consideration, in any case in which a restriction on assistance would be applicable but for this subsection, whether assistance in support of programs of nongovernmental organizations is in the national interest of the United States: *Provided further,* That before using the authority of this subsection to furnish assistance in support of programs of non-

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[2] In a memorandum of November 25, 1998, for the Secretary of State, the President "determine[d] and certif[ied] that it is important to the national security interests of the United States to waive the provisions of section 1003 of the Anti-Terrorism Act of 1987, Public Law 100–204, through May 24, 1999." (Presidential Determination No. 99–5; 63 F.R. 68145).

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 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).

New authority to waive certain provisions was continued in general provisions of this Act; see also secs. 552, 556, 566, and 584.

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); until August 12, 1997, by Presidential Determination No. 97–17 of February 21, 1997 (62 F.R. 9903); through June 4, 1998, by Presidential Determination No. 98–8 of December 5, 1997 (62 F.R. 66255); through November 26, 1998, by Presidential Determination No. 98–29 of June 3, 1998 (63 F.R. 32711); and through May 24, 1999, by Presidential Determination No. 99–5 of November 25, 1998 (63 F.R. 68145).

[3] Similar language was first enacted in sec. 562 of the Foreign Assistance Appropriations Act, 1993.

governmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

(b) PUBLIC LAW 480.—During fiscal year 1999, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: *Provided,* That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) EXCEPTION.—This section shall not apply—

(1) with respect to section 620A of the Foreign Assistance Act or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that violate internationally recognized human rights.

* * * * * * *

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 551.[4] (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 40(d) of the Arms Export Control Act or any other comparable provision of law. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

(c) Whenever the waiver of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance estimated to be provided, including the estimated dollar amount of

[4] Similar language was first enacted as sec. 573 of the Foreign Assistance Appropriations Act, 1994. See also sec. 620A of the Foreign Assistance Act of 1961.

such assistance, and an explanation of how the assistance furthers United States national interests.

* * * * * * *

SPECIAL DEBT RELIEF FOR THE POOREST

SEC. 559. (a)[5] AUTHORITY TO REDUCE DEBT.—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

(1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961;

(2) credits extended or guarantees issued under the Arms Export Control Act; or

(3) any obligation or portion of such obligation for a Latin American 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 of June 29, 1948, as amended, section 4(b) of the Food for Peace Act of 1966, as amended (Public Law 89–808), or section 202 of the Agricultural Trade Act of 1978, as amended (Public Law 95–501).

(b) LIMITATIONS.—

(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as "Paris Club Agreed Minutes".

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as "IDA-only" countries.

(c) CONDITIONS.—The authority provided by subsection (a) may be exercised only with respect to a country whose government—

(1) does not have an excessive level of military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters;

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

(5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

[5] In a memorandum of July 8, 1996, the President delegated to the Secretary of the Treasury, in consultation with the Secretaries of State and Defense, the functions, authorities, and duties conferred on the President by sec. 570(a) of this Act, sec. 561(a) of Public Law 103–306, and any similar subsequent provision of law (61 F.R. 38563).

(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt restructuring".

(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for purposes of any provision of law limiting assistance to a country. The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961.

* * * * * * *

SENSE OF CONGRESS REGARDING IRAN

SEC. 586. (a) The Congress finds that—

(1) according to the Department of State, Iran continues to support international terrorism, providing training, financing, and weapons to such terrorist groups as Hizballah, Islamic Jihad and Hamas;

(2) Iran continues to oppose the Arab-Israeli peace process and refuses to recognize Israel's right to exist;

(3) Iran continues aggressively to seek weapons of mass destruction and the missiles to deliver them;

(4) it is long-standing United States policy to offer official government-to-government dialogue with the Iranian regime, such offers having been repeatedly rebuffed by Tehran;

(5) more than a year after the election of President Khatemi, Iranian foreign policy continues to threaten American security and that of our allies in the Middle East; and

(6) despite repeated offers and tentative steps toward rapprochement with Iran by the Clinton Administration, including a decision to waive sanctions under the Iran-Libya Sanctions Act and the President's veto of the Iran Missile Proliferation Sanctions Act, Iran has failed to reciprocate in a meaningful manner.

(b) Therefore it is the sense of the Congress that—

(1) the Administration should make no concessions to the Government of Iran unless and until that government moderates its objectionable policies, including taking steps to end its support of international terrorism, opposition to the Middle East peace process, and the development and proliferation of weapons of mass destruction and their means of delivery; and

(2) there should be no change in United States policy toward Iran until there is credible and sustained evidence of a change in Iranian policies.

* * * * * * *

NATIONAL COMMISSION ON TERRORISM

SEC. 591. (a) ESTABLISHMENT OF NATIONAL COMMISSION ON TERRORISM.—

(1) ESTABLISHMENT.—There is established a national commission on terrorism to review counter-terrorism policies regarding the prevention and punishment of international acts of terrorism directed at the United States. The commission shall be known as "The National Commission on Terrorism".

(2) COMPOSITION.—The commission shall be composed of 10 members appointed as follows:

(A) Three members shall be appointed by the Majority Leader of the Senate.

(B) Three members shall be appointed by the Speaker of the House of Representatives.

(C) Two members shall be appointed by the Minority Leader of the Senate.

(D) Two members shall be appointed by the Minority Leader of the House of Representatives.

(E) The appointments of the members of the commission should be made no later than 3 months after the date of the enactment of this Act.

(3) QUALIFICATIONS.—The members should have a knowledge and expertise in matters to be studied by the commission.

(4) CHAIR.—The Speaker of the House of Representatives, after consultation with the majority leader of the Senate and the minority leaders of the House of Representatives and the Senate, shall designate one of the members of the Commission to serve as chair of the Commission.

(5) PERIOD OF APPOINTMENT: VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(6) SECURITY CLEARANCES.—All Members of the Commission should hold appropriate security clearances.

(b) DUTIES.—

(1) IN GENERAL.—The commission shall consider issues relating to international terrorism directed at the United States as follows:

(A) Review the laws, regulations, policies, directives, and practices relating to counterterrorism in the prevention and punishment of international terrorism directed towards the United States.

(B) Assess the extent to which laws, regulations, policies, directives, and practices relating to counterterrorism have been effective in preventing or punishing international terrorism directed towards the United States. At a minimum, the assessment should include a review of the following:

(i) Evidence that terrorist organizations have established an infrastructure in the western hemisphere for the support and conduct of terrorist activities.

(ii) Executive branch efforts to coordinate counterterrorism activities among Federal, State, and local agencies and with other nations to determine the effectiveness of such coordination efforts.

(iii) Executive branch efforts to prevent the use of nuclear, biological, and chemical weapons by terrorists.

(C) Recommend changes to counterterrorism policy in preventing and punishing international terrorism directed toward the United States.

(2) REPORT.—Not later than 6 months after the date on which the Commission first meets, the Commission shall sub-

mit to the President and the Congress a final report of the findings and conclusions of the commission, together with any recommendations.

(c) ADMINISTRATIVE MATTERS.—

(1) MEETINGS.—

(A) The commission shall hold its first meeting on a date designated by the Speaker of the House which is not later than 30 days after the date on which all members have been appointed.

(B) After the first meeting, the commission shall meet upon the call of the chair.

(C) A majority of the members of the commission shall constitute a quorum, but a lesser number may hold meetings.

(2) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the commission may, if authorized by the commission, take any action which the commission is authorized to take under this section.

(3) POWERS.—

(A) The commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the commission considers advisable to carry out its duties.

(B) The commission may secure directly from any agency of the Federal Government such information as the commission considers necessary to carry out its duties. Upon the request of the chair of the commission, the head of a department or agency shall furnish the requested information expeditiously to the commission.

(C) The commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) PAY AND EXPENSES OF COMMISSION MEMBERS.—

(A) Subject to appropriations, each member of the commission who is not an employee of the government shall be paid at a rate not to exceed 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 performing the duties of the commission.

(B) Members and personnel for the commission may travel on aircraft, vehicles, or other conveyances of the Armed Forces of the United States when travel is necessary in the performance of a duty of the commission except when the cost of commercial transportation is less expensive.

(C) The members of the commission may 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.

(D)(i) A member of the commission who is an annuitant otherwise covered by section 8344 or 8468 of title 5, United States Code, by reason of membership on the commission shall not be subject to the provisions of such section with respect to membership on the commission.

(ii) A member of the commission who is a member or former member of a uniformed service shall not be subject to the provisions of subsections (b) and (c) of section 5532 of such title with respect to membership on the commission.

(5) STAFF AND ADMINISTRATIVE SUPPORT.—

(A) The chairman of the commission may, without regard to civil service laws and regulations, appoint and terminate an executive director and up to three additional staff members as necessary to enable the commission to perform its duties. The chairman of the commission may fix the compensation of the executive director and other personnel 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, except that the rate of pay may not exceed the maximum rate of pay for GS–15 under the General Schedule.

(B) Upon the request of the chairman of the commission, the head of any department or agency of the Federal Government may detail, without reimbursement, any personnel of the department or agency to the commission to assist in carrying out its duties. The detail of an employee shall be without interruption or loss of civil service status or privilege.

(d) TERMINATION OF COMMISSION.—The commission shall terminate 30 days after the date on which the commission submits a final report.

(e) FUNDING.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

* * * * * * *

SENSE OF CONGRESS REGARDING THE TRIAL IN THE NETHERLANDS OF THE SUSPECTS INDICTED IN THE BOMBING OF PAN AM FLIGHT 103

SEC. 596. (a) FINDINGS.—Congress makes the following findings:

(1) On December 21, 1988, 270 people, including 189 United States citizens, were killed in a terrorist bombing on Pan Am Flight 103 over Lockerbie, Scotland.

(2) Britain and the United States indicted 2 Libyan intelligence agents—Abdel Basset Al-Megrahi and Lamen Khalifa Fhimah—in 1991 and sought their extradition from Libya to the United States or the United Kingdom to stand trial for this heinous terrorist act.

(3) The United Nations Security Council called for the extradition of the suspects in Security Council Resolution 731 and imposed sanctions on Libya in Security Council Resolutions 748 and 883 because Libyan leader, Colonel Muammar Qa-

dhafi, refused to transfer the suspects to either the United States or the United Kingdom to stand trial.

(4) The sanctions in Security Council Resolutions 748 and 883 include a worldwide ban on Libya's national airline, a ban on flights into and out of Libya by other nations' airlines, a prohibition on supplying arms, airplane parts, and certain oil equipment to Libya, and a freeze on Libyan government funds in other countries.

(5) Colonel Qadhafi has continually refused to extradite the suspects to either the United States or the United Kingdom and has insisted that he will only transfer the suspects to a third and neutral country to stand trial.

(6) On August 24, 1998, the United States and the United Kingdom proposed that Colonel Qadhafi transfer the suspects to the Netherlands, where they would stand trial before a Scottish court, under Scottish law, and with a panel of Scottish judges.

(7) The United States-United Kingdom proposal is consistent with those previously endorsed by the Organization of African Unity, the League of Arab States, the Non-Aligned Movement, and the Islamic Conference.

(8) The United Nations Security Council endorsed the United States-United Kingdom proposal on August 27, 1998, in United Nations Security Council Resolution 1192.

(9) The United States Government has stated that this proposal is nonnegotiable and has called on Colonel Qadhafi to respond promptly, positively, and unequivocally to this proposal by ensuring the timely appearance of the two accused individuals in the Netherlands for trial before the Scottish court.

(10) The United States Government has called on Libya to ensure the production of evidence, including the presence of witnesses before the court, and to comply fully with all the requirements of the United Nations Security Council resolutions.

(11) Secretary of State Albright has said that the United States will urge a multilateral oil embargo against Libya in the United Nations Security Council if Colonel Muammar Qadhafi does not transfer the suspects to The Netherlands to stand trial.

(12) The United Nations Security Council will convene on October 30, 1998, to review sanctions imposed on Libya.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Colonel Qadhafi should promptly transfer the indicted suspects Abdel Basset Al-Megrahi and Lamen Khalifa Fhimah to The Netherlands to stand trial before the Scottish court;

(2) the United States Government should remain firm in its commitment not to negotiate with Colonel Qadhafi on any of the details of the proposal approved by the United Nations in United Nations Security Council Resolution 1192; and

(3) if Colonel Qadhafi does not transfer the indicted suspects Abdel Basset Al-Megrahi and Lamen Khalifa Fhimah to The Netherlands by October 29, 1998, the United States Permanent Representative to the United Nations should—

(A) introduce a resolution in the United Nations Security Council to impose a multilateral oil embargo against Libya;

(B) actively promote adoption of the resolution by the United Nations Security Council; and

(C) assure that a vote will occur in the United Nations Security Council on such a resolution.

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This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999".

10. Department of Justice Appropriations Act, 1999

Partial text of Public Law 105–277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681–50, approved October 21, 1998

* * * * * * *

SEC. 101. * * *

(b) For programs, projects or activities in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

TITLE I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

* * * * * * *

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Attorney General, $10,000,000, to remain vailable until expended, to reimburse any Department of Justice organization for (1) the costs incurred in establishing the operational capability of an office or facility which has been damaged or destroyed as a result of any domestic or international terrorist incident; (2) the costs of providing support to counter, investigate or prosecute domestic or international terrorism, including payment of rewards in connection with these activities; (3) the costs of conducting a terrorism threat assessment of Federal agencies and their facilities; (4) the costs associated with ensuring the continuance of essential Government functions during a time of emergency;and (5) the costs of activities related to the protection of the Nation's critical infrastructure: *Provided,* That any Federal agency may be reimbursed for the costs of detaining in foreign countries individuals accused of acts of terrorism that violate the laws of the United States: *Provided further,* That funds provided under this paragraph shall be available only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

In addition, for necessary expenses, as determined by the Attorney General, $135,000,000, to remain available until expended, to reimburse or transfer to agencies of the Department of Justice for any costs incurred in connection with: (1) providing bomb training and response capabilities to State and local law enforcement agen-

cies; (2) providing training and related equipment for chemical, biological, nuclear, and cyber attack prevention and response capabilities for States, cities, territories, and local jurisdictions; and (3) providing grants, contracts, cooperative agreements, and other assistance authorized by sections 819, 821, and 822 of the Antiterrorism and Effective Death Penalty Act of 1996: *Provided,* That such funds transferred to the Office of Justice Programs may include amounts for management and administration, which shall be transferred to and merged with the "Justice Assistance" account.

* * * * * * *

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For necessary expenses of the Federal Bureau of Investigation for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,668 passenger motor vehicles, of which 2,000 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General, $2,746,805,000; of which not to exceed $50,000,000 for automated data processing and telecommunications and technical investigative equipment and not to exceed $1,000,000 for undercover operations shall remain available until September 30, 2000; of which not less than $292,473,000 shall be for counterterrorism investigations, foreign counterintelligence, and other activities related to our national security; of which not to exceed $61,800,000 shall remain available until expended; of which not to exceed $10,000,000 is authorized to be made available for making advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism, organized crime, and drug investigations; and of which $1,500,000 shall be available to maintain an independent program office dedicated solely to the automation of fingerprint identification services: *Provided,* That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further,* That no funds in this Act may be used to provide ballistics imaging equipment to any State or local authority which has obtained similar equipment through a Federal grant or subsidy unless the State or local authority agrees to return that equipment or to repay that grant or subsidy to the Federal Government.

In addition, $223,356,000 for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund, as authorized by the Violent Crime Control and Law Enforcement Act of 1994, as amended, and the Antiterrorism and Effective Death Penalty Act of 1996.

* * * * * * *

SEC. 115. (a)(1) Notwithstanding any other provision of law, for fiscal year 1999, the Attorney General may obligate any funds appropriated for or reimbursed to the Counterterrorism programs, projects or activities of the Department of Justice to purchase or lease equipment or any related items, or to acquire interim services, without regard to any otherwise applicable Federal acquisition rule, if the Attorney General determines that—

(A) there is an exigent need for the equipment, related items, or services in order to support an ongoing counterterrorism, national security, or computercrime investigation or prosecution;

(B) the equipment, related items, or services required are not available within the Department of Justice; and

(C) adherence to that Federal acquisition rule would—

(i) delay the timely acquisition of the equipment, related items, or services; and

(ii) adversely affect an ongoing counterterrorism, national security, or computercrime investigation or prosecution.

(2) In this subsection, the term "Federal acquisition rule" means any provision of title II or IX of the Federal Property and Administrative Services Act of 1949, the Office of Federal Procurement Policy Act, the Small Business Act, the Federal Acquisition Regulation, or any other provision of law or regulation that establishes policies, procedures, requirements, conditions, or restrictions for procurements by the head of a department or agency or the Federal Government.

(b) The Attorney General shall immediately notify the Committees on Appropriations of the House of Representatives and the Senate in writing of each expenditure under subsection (a), which notification shall include sufficient information to explain the circumstances necessitating the exercise of the authority under that subsection.

* * * * * * *

This title may be cited as the "Department of Justice Appropriations Act, 1999".

11. Emergency Supplemental Appropriations for Fiscal Year 1999

Title II of division B of Public Law 105–277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999; H.R. 4328], 112 Stat. 2681–565, approved October 21, 1998

DIVISION B—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

* * * * * * *

TITLE II—ANTITERRORISM

CHAPTER 1

DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $21,680,000, to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, an additional amount for "Diplomatic and Consular Programs", $773,700,000, to remain available until expended, of which $25,700,000 shall be available only to the extent that an official budget request that includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided,* That as determined by the Secretary of State, such funds may be used to procure services and equipment overseas necessary to improve worldwide security and reconstitute embassy operations in Kenya and Tanzania on behalf of any other agency: *Provided further,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SALARIES AND EXPENSES

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, an additional amount for "Salaries and Expenses", $12,000,000, to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OFFICE OF INSPECTOR GENERAL

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, an additional amount for "Office of Inspector General", $1,000,000, to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, an additional amount for "Security and Maintenance of United States Missions", $627,000,000, to remain available until expended; of which $56,000,000 is for security projects, relocations, and security equipment on behalf of missions of other U.S. Government agencies, which amount may be transferred to any appropriation for this purpose, to be merged with and available for the same time period as the appropriation to which transferred; and of which $185,000,000 is for capital improvements or relocation of office and residential facilities to improve security, which amount shall become available fifteen days after notice thereof has been transmitted to the Appropriations Committees of both Houses of Congress: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, an additional amount for "Emergencies in the Diplomatic and Consular Service", $10,000,000, to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER 2

DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and Maintenance, Defense- Wide", $358,427,000, to remain available for obligation until expended: *Provided,* That the Secretary of Defense may transfer these funds to fiscal year 1999 appropriations for operation and maintenance; procurement; research, development, test and evaluation; and family housing: *Provided further,* That the funds transferred shall be merged with and 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 under this heading is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That the entire amount made available under this heading is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That the entire amount shall be available only to the extent that an official budget request for $358,427,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 201.[1] Maintenance and Operation of Equipment. * * *

(INCLUDING TRANSFER OF FUNDS)

SEC. 202. In addition to amounts appropriated or otherwise made available in the Department of Defense Appropriations Act, 1999, $50,000,000 is hereby appropriated, only to initiate and expand activities of the Department of Defense to prevent, prepare for, and respond to a terrorist attack in the United States involving weapons of mass destruction: *Provided,* That $35,000,000 of the funds made available in this section shall be transferred to the following accounts in the specified amounts:

"National Guard Personnel, Army", $4,000,000;

"National Guard Personnel, Air Force", $1,000,000;

"Operation and Maintenance, Army", $2,000,000;

"Operation and Maintenance, Army National Guard", $20,000,000; and

"Procurement, Defense-Wide", $8,000,000:

Provided further, That of the funds made available in this section, $15,000,000 shall be transferred to "Research, Development, Test and Evaluation, Army", only to develop and support a long term,

[1] Sec. 201 amended sec. 374 of title 10, United States Code. See sec. D.1 of this publication for text..

sustainable Weapons of Mass Destruction emergency preparedness training program: *Provided further,* That funds transferred pursuant to this section shall be merged with and 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 section is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That the entire amount provided in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That the entire amount shall be available only to the extent that an official budget request for $50,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

SEC. 203. In addition to amounts appropriated or otherwise made available in the Department of Defense Appropriations Act, 1999, $120,500,000, to remain available for obligation until expended, is appropriated to the proper accounts within the Department of the Air Force: *Provided,* That the additional amount shall be made available only for the provision of crisis response aviation support for critical national security, law enforcement and emergency response agencies: *Provided further,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That the entire amount shall be available only to the extent that an official budget request for $120,500,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further,* That the President of the United States shall submit to the Congress by March 15, 1999, an interagency agreement for the utilization of Department of Defense assets to support the crisis response requirements of the Federal Bureau of Investigation and the Federal Emergency Management Agency.

CHAPTER 3

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL SECURITY ASSISTANCE

ECONOMIC SUPPORT FUND

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding section 10 of Public Law 91–672, for an additional amount for "Economic Support Fund" for assistance for Kenya and Tanzania, $50,000,000, to remain available until September 30, 2000: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That funds appropriated under this paragraph may be made available for adminis-

trative costs associated with assistance provided under this paragraph: *Provided further,* That $2,500,000 shall be transferred to and merged with "Operating Expenses of the Agency for International Development" for security and related expenses: *Provided further,* That $1,269,000 shall be transferred to and merged with "Peace Corps" for security and related expenses: *Provided further,* That the transfers authorized in the preceding provisos shall be in addition to sums otherwise available for such purposes: *Provided further,* That funds appropriated under this paragraph shall only be available through the regular notification procedures of the Committees on Appropriations.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956 and section 10 of Public Law 91–672, for an additional amount for "Nonproliferation, Anti-Terrorism, Demining and Related Programs" for anti-terrorism assistance, $20,000,000, to remain available until September 30, 2000: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER 4

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the National Park System" for emergency security related expenses, $2,320,000, to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONSTRUCTION

For an additional amount for "Construction" for emergency security related expenses, $3,680,000, to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER 5

ARCHITECT OF THE CAPITOL

CAPITOL VISITOR CENTER

For necessary expenses for the planning, engineering, design, and construction, as each such milestone is approved by the Committee on Rules and Administration of the Senate, the Committee on House Oversight of the House of Representatives, the Commit-

tees on Appropriations of the House of Representatives and of the Senate, and other appropriate committees of the House of Representatives and of the Senate, of a new facility to provide greater security for all persons working in or visiting the United States Capitol and to enhance the educational experience of those who have come to learn about the Capitol building and Congress, $100,000,000, to be supplemented by private funds, which shall remain available until expended: *Provided,* That Section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) shall not apply to the funds made available under this heading: *Provided further,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CAPITOL POLICE BOARD

SECURITY ENHANCEMENTS

For the Capitol Police Board for security enhancements to the Capitol complex, including the buildings and grounds of the Library of Congress, $106,782,000, to remain available until expended: *Provided,* That such security enhancements shall be carried out in accordance with a plan or plans approved by the Committee on House Oversight of the House of Representatives, the Committee on Rules and Administration of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on Appropriations of the Senate: *Provided further,* That the Capitol Police Board shall transfer to the Architect of the Capitol such portion of the funds made available under this heading as the Architect may require for expenses necessary to provide support for the security enhancements, subject to the approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate: *Provided further,* That the Capitol Police Board shall transfer to the Librarian of Congress such portion of the funds made available under this heading as the Librarian may require for expenses necessary to provide support for the security enhancements, subject to the approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate: *Provided further,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISION, THIS CHAPTER

The responsibility for design, installation, and maintenance of security systems to protect the physical security of the buildings and grounds of the Library of Congress is transferred from the Architect of the Capitol to the Capitol Police Board. Such design, installation, and maintenance shall be carried out under the direction of the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate, and without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5). Any alteration to a struc-

tural, mechanical, or architectural feature of the buildings and grounds of the Library of Congress that is required for a security system under the preceding sentence may be carried out only with the approval of the Architect of the Capitol.

CHAPTER 6

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for "Facilities and Equipment", $100,000,000, for necessary expenses for acquisition, installation and related activities supporting the deployment of bulk and trace explosives detection systems and other advanced security equipment at airports in the United States, to remain available until September 30, 2001: *Provided,* That the entire amount shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further,* That the entire amount is designated as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985.

CHAPTER 7

DEPARTMENT OF THE TREASURY

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $3,548,000, to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $80,808,000, to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

12. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997

Partial text of Public Law 104–208 [Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996

* * * * * * *

CIVIL LIABILITY FOR ACTS OF STATE SPONSORED TERRORISM

SEC. 589. (a) an official, employee, or agent of a foreign state designated as a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 while acting within the scope of his or her office, employment, or agency shall be liable to a United States national or the national's legal representative for personal injury or death caused by acts of that official, employee, or agent for which the courts of the United States may maintain jurisdiction under section 1605(a)(7) of title 28, United States Code, for money damages which may include economic damages, solatium, pain, and suffering, and punitive damages if the acts were among those described in section 1605(a)(7).

(b) Provisions related to statute of limitations and limitations on discovery that would apply to an action brought under 28 U.S.C. 1605(f) and (g) shall also apply to actions brought under this section. No action shall be maintained under this action if an official, employee, or agent of the United States, while acting within the scope of his or her office, employment, or agency would not be liable for such acts if carried out within the United States.

Titles I through V of this Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997".

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1. State Department Basic Authorities Act of 1956

Public Law 84–885 [S. 2569], 70 Stat. 890, approved August 1, 1956, as amended

AN ACT To provide certain basic authority for the Department of State.

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 "State Department Basic Authorities Act of 1956".

TITLE I—BASIC AUTHORITIES GENERALLY

ORGANIZATION OF THE DEPARTMENT OF STATE

SECTION 1. (a) SECRETARY OF STATE.—

* * * * * * *

(f)[1] COORDINATOR FOR COUNTERTERRORISM.—

(1) IN GENERAL.—There is within the office of the Secretary of State a Coordinator for Counterterrorism (in this paragraph referred to as the 'Coordinator') who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) DUTIES.—

(A) IN GENERAL.—The Coordinator shall perform such duties and exercise such powers as the Secretary of State shall prescribe.

(B) DUTIES DESCRIBED.—The principal duty of the Coordinator shall be the overall supervision (including policy oversight of resources) of international counterterrorism activities. The Coordinator shall be the principal adviser to the Secretary of State on international counterterrorism matters. The Coordinator shall be the principal counterterrorism official within the senior management of the Department of State and shall report directly to the Secretary of State.

(3) RANK AND STATUS OF AMBASSADOR.—The Coordinator shall have the rank and status of Ambassador at Large.".

* * * * * * *

SEC. 36.[2] DEPARTMENT OF STATE REWARDS PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a program for the payment of rewards to carry out the purposes of this section.

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[1] Sec. (f) was added by Sec. 2301(a) of Public Law 105–277 (112 Stat. 2681–824)

[2] 22 U.S.C. 2708. Sec 36 was added by sec. 102 of Public Law 98–533 (98 Stat. 2708). It was subsequently amended by Public Law 100–690 (102 Stat. 4287); by Public Law 103–236 (108 Stat. 519); by Public Law 104–134 (110 Stat. 1321–45); In 1998, sec. 36 was amended both by sec. 2202 of Public Law 105–277 (112 Stat. 2681–805) and subsequently by sec. 101 of Public Law 105–323 (112 Stat. 3029).

(2) PURPOSE.—The rewards program shall be designed to assist in the prevention of acts of international terrorism, international narcotics trafficking, and other related criminal acts.

(3) IMPLEMENTATION.—The rewards program shall be administered by the Secretary of State, in consultation, as appropriate, with the Attorney General.

(b) REWARDS AUTHORIZED.—In the sole discretion of the Secretary (except as provided in subsection (c)(2)) and in consultation, as appropriate, with the Attorney General, the Secretary may pay a reward to any individual who furnishes information leading to—

(1) the arrest or conviction in any country of any individual for the commission of an act of international terrorism against a United States person or United States property;

(2) the arrest or conviction in any country of any individual conspiring or attempting to commit an act of international terrorism against a United States person or United States property;

(3) the arrest or conviction in any country of any individual for committing, primarily outside the territorial jurisdiction of the United States, any narcotics-related offense if that offense involves or is a significant part of conduct that involves—

(A) a violation of United States narcotics laws such that the individual would be a major violator of such laws;

(B) the killing or kidnapping of—

(i) any officer, employee, or contract employee of the United States Government while such individual is engaged in official duties, or on account of that individual's official duties, in connection with the enforcement of United States narcotics laws or the implementing of United States narcotics control objectives; or

(ii) a member of the immediate family of any such individual on account of that individual's official duties, in connection with the enforcement of United States narcotics laws or the implementing of United States narcotics control objectives; or

(C) an attempt or conspiracy to commit any act described in subparagraph (A) or (B);

(4) the arrest or conviction in any country of any individual aiding or abetting in the commission of an act described in paragraph (1), (2), or (3); or

(5) the prevention, frustration, or favorable resolution of an act described in paragraph (1), (2), or (3).

(c) Coordination.—

(1) PROCEDURES.—To ensure that the payment of rewards pursuant to this section does not duplicate or interfere with the payment of informants or the obtaining of evidence or information, as authorized to the Department of Justice, the offering, administration, and payment of rewards under this section, including procedures for—

(A) identifying individuals, organizations, and offenses with respect to which rewards will be offered;

(B) the publication of rewards;

(C) the offering of joint rewards with foreign governments;

(D) the receipt and analysis of data; and

(E) the payment and approval of payment, shall be governed by procedures developed by the Secretary of State, in consultation with the Attorney General.

(2) Prior approval of attorney general required.—Before making a reward under this section in a matter over which there is Federal criminal jurisdiction, the Secretary of State shall obtain the concurrence of the Attorney General.

(d) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 102 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 408), but subject to paragraph (2), there are authorized to be appropriated to the Department of State from time to time such amounts as may be necessary to carry out this section.

(2) LIMITATION.—No amount of funds may be appropriated under paragraph (1) which, when added to the unobligated balance of amounts previously appropriated to carry out this section, would cause such amounts to exceed $15,000,000.

(3) ALLOCATION OF FUNDS.—To the maximum extent practicable, funds made available to carry out this section should be distributed equally for the purpose of preventing acts of international terrorism and for the purpose of preventing international narcotics trafficking.

(4) PERIOD OF AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

(e) LIMITATIONS AND CERTIFICATION.—

(1) MAXIMUM AMOUNT.—No reward paid under this section may exceed $2,000,000.

(2) APPROVAL.—A reward under this section of more than $100,000 may not be made without the approval of the Secretary.

(3) CERTIFICATION FOR PAYMENT.—Any reward granted under this section shall be approved and certified for payment by the Secretary.

(4) NONDELEGATION OF AUTHORITY.—The authority to approve rewards of more than $100,000 set forth in paragraph (2) may not be delegated.

(5) PROTECTION MEASURES.—If the Secretary determines that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Secretary may take such measures in connection with the payment of the reward as he considers necessary to effect such protection.

(f) INELIGIBILITY.—An officer or employee of any entity of Federal, State, or local government or of a foreign government who, while in the performance of his or her official duties, furnishes information described in subsection (b) shall not be eligible for a reward under this section.

(g) REPORTS.—

(1) REPORTS ON PAYMENT OF REWARDS.—Not later than 30 days after the payment of any reward under this section, the

Secretary shall submit a report to the appropriate congressional committees with respect to such reward. The report, which may be submitted in classified form if necessary, shall specify the amount of the reward paid, to whom the reward was paid, and the acts with respect to which the reward was paid. The report shall also discuss the significance of the information for which the reward was paid in dealing with those acts.

(2) ANNUAL REPORTS.—Not later than 60 days after the end of each fiscal year, the Secretary shall submit a report to the appropriate congressional committees with respect to the operation of the rewards program. The report shall provide information on the total amounts expended during the fiscal year ending in that year to carry out this section, including amounts expended to publicize the availability of rewards.

(h) PUBLICATION REGARDING REWARDS OFFERED BY FOREIGN GOVERNMENTS.—Notwithstanding any other provision of this section, in the sole discretion of the Secretary, the resources of the rewards program shall be available for the publication of rewards offered by foreign governments regarding acts of international terrorism which do not involve United States persons or property or a violation of the narcotics laws of the United States.

(i) DETERMINATIONS OF THE SECRETARY.—A determination made by the Secretary under this section shall be final and conclusive and shall not be subject to judicial review.

(j) DEFINITIONS.—As used in this section:

(1) ACT OF INTERNATIONAL TERRORISM.—The term 'act of international terrorism' includes—

(A) any act substantially contributing to the acquisition of unsafeguarded special nuclear material (as defined in paragraph (8) of section 830 of the Nuclear Proliferation Prevention Act of 1994 (22 U.S.C. 3201 note)) or any nuclear explosive device (as defined in paragraph (4) of that section) by an individual, group, or non-nuclear-weapon state (as defined in paragraph (5) of that section); and

(B) any act, as determined by the Secretary, which materially supports the conduct of international terrorism, including the counterfeiting of United States currency or the illegal use of other monetary instruments by an individual, group, or country supporting international terrorism as determined for purposes of section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(3) MEMBER OF THE IMMEDIATE FAMILY.—The term 'member of the immediate family', with respect to an individual, includes—

(A) a spouse, parent, brother, sister, or child of the individual;

(B) a person with respect to whom the individual stands in loco parentis; and

(C) any person not covered by subparagraph (A) or (B) who is living in the individual's household and is related to the individual by blood or marriage.

(4) REWARDS PROGRAM.—The term 'rewards program' means the program established in subsection (a)(1).

(5) UNITED STATES NARCOTICS LAWS.—The term 'United States narcotics laws' means the laws of the United States for the prevention and control of illicit trafficking in controlled substances (as such term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))).

(6) UNITED STATES PERSON.—The term 'United States person' means—

(A) a citizen or national of the United States; and

(B) an alien lawfully present in the United States.

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COUNTERTERRORISM PROTECTION FUND

SEC. 39.[3] (a) AUTHORITY.—The Secretary of State may reimburse domestic and foreign persons, agencies, or governments for the protection of judges or other persons who provide assistance or information relating to terrorist incidents primarily outside the territorial jurisdiction of the United States. Before making a payment under this section in a matter over which there is Federal criminal jurisdiction, the Secretary shall advise and consult with the Attorney General.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of State for "Administration of Foreign Affairs" $1,000,000 for fiscal year 1986 and $1,000,000 for fiscal year 1987 for use in reimbursing persons, agencies, or governments under this section.

(c) DESIGNATION OF FUND.—Amounts made available under this section may be referred to as the "Counterterrorism Protection Fund".

AUTHORITY TO CONTROL CERTAIN TERRORISM-RELATED SERVICES

SEC. 40.[4] (a) AUTHORITY.—The Secretary of State may, by regulation, impose controls on the provisions of the services described in subsection (b) if the Secretary determines that provision of such services would aid and abet international terrorism.

(b) SERVICES SUBJECT TO CONTROL.—The services subject to control under subsection (a) are the following:

(1) Serving in or with the security forces of a designated foreign government.

(2) Providing training or other technical services having a direct military, law enforcement, or intelligence application, to or for the security forces of a designated foreign government.

Any regulations issued to impose controls on services described in paragraph (2) shall list the specific types of training and other services subject to the controls.

[3] 22 U.S.C. 2711. Sec. 39 was added by sec. 504(2) of Public Law 99–399 (100 Stat. 871).
[4] 22 U.S.C. 2712. Sec. 40 was added by sec. 506(2) of Public Law 99–399 (100 Stat. 872).

(c) PERSONS SUBJECT OF CONTROLS.—These services may be controlled under subsection (a) when they are provided within the United States by any individual or entity and when they are provided anywhere in the world by a United States person.

(d) LICENSES.—In carrying out subsection (a), the Secretary of State may require licenses, which may be revoked, suspended, or amended, without prior notice, whenever such action is deemed to be advisable.

(e) DEFINITIONS.—

(1) DESIGNATED FOREIGN GOVERNMENT.—As used in this section, the term "designated foreign government' means a foreign government that the Secretary of State has determined, for purposes of section 6(j)(1) of the Export Administration Act of 1979, has repeatedly provided support for acts of international terrorism.

(2) SECURITY FORCES.—As used in this section, the term "security forces" means any military or paramilitary forces, any police or other law enforcement agency (including any police or other law enforcement agency at the regional or local level), and any intelligence agency of a foreign government.

(3) UNITED STATES.—As used in this section, the term "United States" includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

(4) UNITED STATES PERSON.—As used in this section, the term "United States person" means any United States national, any permanent resident alien, and any sole proprietorship, partnership, company, association, or corporation organized under the laws of or having its principal place of business within the United States.

(f) VIOLATIONS.—

(1) PENALTIES.—Whoever willfully violates any regulation issued under this section shall be fined not more than $100,000 or five times the total compensation received for the conduct which constitutes the violation, whichever is greater, or imprisoned for not more than ten years, or both, for each such offense.

(2) INVESTIGATIONS.—The Attorney General and the Secretary of the Treasury shall have authority to investigate violations of regulations issued under this section.

(g) CONGRESSIONAL OVERSIGHT.—

(1) REVIEW OF REGULATIONS.—Not less than 30 days before issuing any regulations under this section (including any amendment thereto), the Secretary of State shall transmit the proposed regulations to the Congress.

(2) REPORTS.—Not less than once every six months, the Secretary of State shall report to the Congress concerning the number and character of licenses granted and denied during the previous reporting period, and such other information as the Secretary may find to be relevant to the accomplishment of the objectives of this section.

(h) RELATIONSHIP TO OTHER LAWS.—The authority granted by this section is in addition to the authorities granted by any other provision of law.

* * * * * * *

DENIAL OF VISAS [5]

SEC. 51.[5] (a) REPORT TO CONGRESS.—The Secretary shall report, on a timely basis, to the appropriate committees of the Congress each time a consular post denies a visa on the grounds of terrorist activities or foreign policy. Such report shall set forth the name and nationality of each such person and a factual statement of the basis for such denial.

(b) LIMITATION.—Information contained in such report may be classified to the extent necessary and shall protect intelligence sources and methods.

(c) APPROPRIATE COMMITTEES.—For the purposes of this section the term "appropriate committees of the Congress" means the Committee on the Judiciary and the Committee on Foreign Affairs [6] of the House of Representatives and the Committee on the Judiciary and the Committee on Foreign Relations of the Senate.

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[5] 22 U.S.C. 2723. Sec. 127(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 660), added sec. 51. See also sec. 128 of that Act, relating to visa lookout systems.

Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Political Affairs, in consultation with the Under Secretary for Management, by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

[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. Intelligence Authorization Act for Fiscal Year 1996

Public Law 104–93 [H.R. 1665], 109 Stat. 961, approved January 6, 1996

AN ACT To authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, 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 "Intelligence Authorization Act for Fiscal Year 1996".

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1996".

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TITLE III—GENERAL PROVISIONS

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SEC. 310. ASSISTANCE TO FOREIGN COUNTRIES.

Notwithstanding any other provision of law, funds authorized to be appropriated by this Act may be used to provide assistance to a foreign country for counterterrorism efforts if—

(1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and

(2) the Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives are notified not later than 15 days prior to the provision of such assistance.

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TITLE VI—FEDERAL BUREAU OF INVESTIGATION

SEC. 601. DISCLOSURE OF INFORMATION AND CONSUMER REPORTS TO FBI FOR COUNTERINTELLIGENCE PURPOSES.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after section 623 the following new section:"

§ 624.[1] Disclosures to FBI for counterintelligence purposes

"(a) IDENTITY OF FINANCIAL INSTITUTIONS.—Notwithstanding section 604 or any other provision of this title, a consumer reporting

[1] 15 USC 1681u.

agency shall furnish to the Federal Bureau of Investigation the names and addresses of all financial institutions (as that term is defined in section 1101 of the Right to Financial Privacy Act of 1978) at which a consumer maintains or has maintained an account, to the extent that information is in the files of the agency, when presented with a written request for that information, signed by the Director of the Federal Bureau of Investigation, or the Director's designee, which certifies compliance with this section. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(1) such information is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the consumer—

"(A) is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978) or a person who is not a United States person (as defined in such section 101) and is an official of a foreign power; or

"(B) is an agent of a foreign power and is engaging or has engaged in an act of international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

* * * * * * *

"(c) COURT ORDER FOR DISCLOSURE OF CONSUMER REPORTS.—Notwithstanding section 604 or any other provision of this title, if requested in writing by the Director of the Federal Bureau of Investigation, or a designee of the Director, a court may issue an order ex parte directing a consumer reporting agency to furnish a consumer report to the Federal Bureau of Investigation, upon a showing in camera that—

"(1) the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought—

"(A) is an agent of a foreign power, and

"(B) is engaging or has engaged in an act of international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

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3. Foreign Relations Authorization Act, Fiscal Years 1998 and 1999

Partial text of subdivision B of Public Law 105–277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681–801, approved October 21, 1998

SUBDIVISION B—FOREIGN RELATIONS AUTHORIZATION

TITLE XX—GENERAL PROVISIONS

SEC. 2001.[1] SHORT TITLE.

This subdivision may be cited as the "Foreign Relations Authorization Act, Fiscal Years 1998 and 1999".

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SEC. 2202. REVISION OF DEPARTMENT OF STATE REWARDS PROGRAM.[2] * * *.

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CHAPTER 2—CONSULAR AUTHORITIES OF THE DEPARTMENT OF STATE

SEC. 2221. USE OF CERTAIN PASSPORT PROCESSING FEES FOR ENHANCED PASSPORT SERVICES.

For each of the fiscal years 1998 and 1999, of the fees collected for expedited passport processing and deposited to an offsetting collection pursuant to title V of the Department of State and Related Agencies Appropriations Act for Fiscal Year 1995 (Public Law 103-317; 22 U.S.C. 214 note), 30 percent shall be available only for enhancing passport services for United States citizens, improving the integrity and efficiency of the passport issuance process, improving the secure nature of the United States passport, investigating passport fraud, and deterring entry into the United States by terrorists, drug traffickers, or other criminals.

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TITLE XXIII—ORGANIZATION OF THE DEPARTMENT OF STATE; DEPARTMENT OF STATE PERSONNEL; THE FOREIGN SERVICE

CHAPTER 1—ORGANIZATION OF THE DEPARTMENT OF STATE

SEC. 2301. COORDINATOR FOR COUNTERTERRORISM.[3] * * *.

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[1] 22 U.S.C. 2651 note.

[2] Sec. 2202 amends section 36 of the State Department Basic Authorities Act of 1956. The text of this amendment can be found at sec. B.1 in this volume.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 161 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) is amended by striking subsection (e).

[3] Sec. 2301 amends section 1 of the State Department Basic Authorities Act of 1956. The text of this amendment can be found at sec. B.1 in this volume.

4. Foreign Relations Authorization Act, Fiscal Years 1994 and 1995

Public Law 103–236 [H.R. 2333], 108 Stat. 382, approved April 30, 1994, as amended

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,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Years 1994 and 1995".

TITLE I—DEPARTMENT OF STATE AND RELATED AGENCIES

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PART B—AUTHORITIES AND ACTIVITIES

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SEC. 133. TERRORISM REWARDS AND REPORTS.

(a) REWARDS FOR INFORMATION ON ACTS OF INTERNATIONAL TERRORISM IN THE UNITED STATES.—

(1)[2] * * *

(2) Notwithstanding section 36(g) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708), in addition to amounts otherwise available the Department of State may expend not more than $4,000,000 in fiscal years 1994 and 1995 to pay rewards pursuant to section 36(a) of such Act.

(b)[3] ANNUAL REPORTS ON TERRORISM.—* * *

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SEC. 140. VISAS.

(a) * * *

(b)[4] AUTOMATED VISA LOOKOUT SYSTEM.—Not later than 18 months after the date of the enactment of this Act, the Secretary of State shall implement an upgrade of all overseas visa lookout operations to computerized systems with automated multiple-name search capabilities.

(c)[4] PROCESSING OF VISAS FOR ADMISSION TO THE UNITED STATES.—

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[1] 22 U.S.C. 2651 note.

[2] Para. (1) amended sec. 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708).

[3] Subsec. (b) amended sec. 140(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f); and sec. 304(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138).

[4] 8 U.S.C. 1182 note.

(1)(A) Beginning 24 months after the date of the enactment of this Act, whenever a United States consular officer issues a visa for admission to the United States, that official shall certify, in writing, that a check of the Automated Visa Lookout System, or any other system or list which maintains information about the excludability of aliens under the Immigration and Nationality Act, has been made and that there is no basis under such system for the exclusion of such alien.

(B) If, at the time an alien applies for an immigrant or nonimmigrant visa, the alien's name is included in the Department of State's visa lookout system and the consular officer to whom the application is made fails to follow the procedures in processing the application required by the inclusion of the alien's name in such system, the consular officer's failure shall be made a matter of record and shall be considered as a serious negative factor in the officer's annual performance evaluation.

(2) If an alien to whom a visa was issued as a result of a failure described in paragraph (1)(B) is admitted to the United States and there is thereafter probable cause to believe that the alien was a participant in a terrorist act causing serious injury, loss of life, or significant destruction of property in the United States, the Secretary of State shall convene an Accountability Review Board under the authority of title III of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

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TITLE V—FOREIGN POLICY

PART A—GENERAL PROVISIONS

* * * * * * *

SEC. 517. SENSE OF THE SENATE ON THE ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT.

(a) SENATE FINDINGS.—The Senate makes the following findings:

(1) The freedom and security of the international community rests on the sanctity of the rule of law.

(2) The international community is increasingly threatened by unlawful acts such as war crimes, genocide, aggression, crimes against humanity, terrorism, drug trafficking, money laundering, and other crimes of an international character.

(3) The prosecution of individuals suspected of carrying out such acts is often impeded by political and legal obstacles such as amnesties, disputes over extradition, differences in the structure and capabilities of national courts, and the lack of uniform guidelines under which to try such individuals.

(4) The war crimes trials held in the aftermath of World War II at Nuremberg, Germany, and Tokyo, Japan, demonstrated that fair and effective prosecution of war criminals could be carried out in an international forum.

(5) Since its inception in 1945 the United Nations has sought to build on the precedent established at the Nuremberg and Tokyo trials by establishing a permanent international crimi-

nal court with jurisdiction over crimes of an international character.

(6) United Nations General Assembly Resolution 44/39, adopted on December 4, 1989, called on the International Law Commission to study the feasibility of an international criminal court.

(7) In the years after passage of that resolution the International Law Commission has taken a number of steps to advance the debate over such a court, including—

(A) the provisional adoption of a draft Code of Crimes Against the Peace and Security of Mankind;

(B) the creation of a Working Group on an International Criminal Jurisdiction and the formulation by that Working Group of several concrete proposals for the establishment and operation of an international criminal court; and

(C) the determination that an international criminal court along the lines of that suggested by the Working Group is feasible and that the logical next step would be to proceed with the formal drafting of a statute for such a court.

(8) United Nations General Assembly Resolution 47/33, adopted on November 25, 1992, called on the International Law Commission to begin the process of drafting a statute for an international criminal court at its next session.

(9) Given the developments of recent years, the time is propitious for the United States to lend its support to this effort.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the establishment of an international criminal court with jurisdiction over crimes of an international character would greatly strengthen the international rule of law;

(2) such a court would thereby serve the interests of the United States and the world community; and

(3) the United States delegation should make every effort to advance this proposal at the United Nations.

(c) * * *

SEC. 518. INTERNATIONAL CRIMINAL COURT PARTICIPATION.

The United States Senate will not consent to the ratification of a treaty providing for United States participation in an international criminal court with jurisdiction over crimes of an international nature which permits representatives of any terrorist organization, including but not limited to the Palestine Liberation Organization, or citizens, nationals or residents of any country listed by the Secretary of State under section 6(j) of the Export Administration Act of 1979 as having repeatedly provided support for acts of international terrorism, to sit in judgement[5] on American citizens.

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[5] As enrolled. Should read "judgment".

PART B—SPOILS OF WAR ACT

SEC. 551.[6] SHORT TITLE.

This part may be cited as the "Spoils of War Act of 1994".

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SEC. 553.[7] PROHIBITION ON TRANSFERS TO COUNTRIES WHICH SUPPORT TERRORISM.

Spoils of war in the possession, custody, or control of the United States may not be transferred to any country determined by the Secretary of State, for purposes of section 40 of the Arms Export Control Act, to be a nation whose government has repeatedly provided support for acts of international terrorism.

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[6] 50 U.S.C. 2201 note.
[7] 50 U.S.C. 2202.

5. 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

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,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Years 1992 and 1993".

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TITLE III—MISCELLANEOUS FOREIGN POLICY PROVISIONS

PART A—FOREIGN POLICY PROVISIONS

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SEC. 304. REPORT ON TERRORIST ASSETS IN THE UNITED STATES.

(a) REPORTS TO CONGRESS.—Beginning 90 days after the date of enactment of this Act and every 365 days thereafter, the Secretary of the Treasury, in consultation with the Attorney General and appropriate investigative agencies,[2] shall submit to the Committee on Foreign Relations and the Committee on Finance of the Senate and the Committee on Foreign Affairs[3] and the Committee on Ways and Means of the House of Representatives a report describing the nature and extent of assets held in the United States by terrorist countries and any organization engaged in international terrorism. Each such report shall provide a detailed list and description of specific assets.[4]

(b) DEFINITIONS.—For purposes of this section—

(1) the term "terrorist countries", refers to countries designated by the Secretary of State under section 40(d) of the Arms Export Control Act; and

(2) the term "international terrorism" has the meaning given such term in section 140(d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.

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[1] 22 U.S.C. 2651 note.

[2] Sec. 133(b)(2)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 396), struck out "Treasury" and inserted in lieu thereof "Treasury, in consultation with the Attorney General and appropriate investigative agencies,".

[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.

[4] Sec. 133(b)(2)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 396), added this sentence.

6. Foreign Relations Authorization Act, Fiscal Years 1988 and 1989

Partial text of Public Law 100–204 [H.R. 1777], 101 Stat. 1331, approved December 22, 1987, as amended

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, 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 "Foreign Relations Authorization Act, Fiscal Years 1988 and 1989".

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TITLE I—THE DEPARTMENT OF STATE

PART B—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES

* * * * * * *

SEC. 140.[2] ANNUAL COUNTRY REPORTS ON TERRORISM.

(a) REQUIREMENT OF ANNUAL COUNTRY REPORTS ON TERRORISM.—The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by April 30[3] of each year, a full and complete report providing—

(1) detailed assessments with respect to each foreign country—

(A) in which acts of international terrorism occurred which were, in the opinion of the Secretary, of major significance;

(B) about which the Congress was notified during the preceding five years pursuant to section 6(j) of the Export Administration Act of 1979; and

(C) which the Secretary determines should be the subject of such report;[4]

(2) all relevant information about the activities during the preceding year of any terrorist group, and any umbrella group under which such terrorist group falls, known to be responsible for the kidnapping or death of an American citizen during the

[1] 22 U.S.C. 2651 note.

[2] 22 U.S.C. 2656f.

[3] Sec. 122 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 104 Stat. 27), struck out "March 31" and inserted in lieu thereof "April 30".

[4] Sec. 578(1) 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 "and" at the end of para. (1), struck out a period at the end of para. (2) and inserted instead a semicolon, and added new paras. (3) and (4).

preceding five years, any terrorist group known to be financed by countries about which Congress was notified during the preceding year pursuant to section 6(j) of the Export Administration Act of 1979, and any other known international terrorist group which the Secretary determines should be the subject of such report;[4]

(3)[4] with respect to each foreign country from which the United States Government has sought cooperation during the previous five years in the investigation or prosecution of an act of international terrorism against United States citizens or interests, information on—

(A) the extent to which the government of the foreign country is cooperating with the United States Government in apprehending, convicting, and punishing the individual or individuals responsible for the act; and

(B) the extent to which the government of the foreign country is cooperating in preventing further acts of terrorism against United States citizens in the foreign country; and

(4)[4] with respect to each foreign country from which the United States Government has sought cooperation during the previous five years in the prevention of an act of international terrorism against such citizens or interests, the information described in paragraph (3)(B).

(b) PROVISIONS TO BE INCLUDED IN REPORT.—The report required under subsection (a) should to the extent feasible include (but not be limited to)—

(1) with respect to subsection (a)(1)—

(A) a review of major counterterrorism efforts undertaken by countries which are the subject of such report, including, as appropriate, steps taken in international fora;

(B) the response of the judicial system of each country which is the subject of such report with respect to matters relating to terrorism affecting American citizens or facilities, or which have, in the opinion of the Secretary, a significant impact on United States counterterrorism efforts, including responses to extradition requests; and

(C) significant support, if any, for international terrorism by each country which is the subject of such report, including (but not limited to)—

(i) political and financial support;

(ii) diplomatic support through diplomatic recognition and use of the diplomatic pouch;

(iii) providing sanctuary to terrorists or terrorist groups; and

(iv) the positions (including voting records) on matters relating to terrorism in the General Assembly of the United Nations and other international bodies and fora of each country which is the subject of such report; and

(2) with respect to subsection (a)(2), any—

(A) significant financial support provided by foreign governments to those groups directly, or provided in support of their activities;

(B) provisions of significant military or paramilitary training or transfer of weapons by foreign governments to those groups;

(C) provision of diplomatic recognition or privileges by foreign governments to those groups;

(D) provision by foreign governments of sanctuary from prosecution to these groups or their members responsible for the commission, attempt, or planning of an act of international terrorism; and

(E) efforts by the United States to eliminate international financial support provided to those groups directly or provided in support of their activities.

(c) CLASSIFICATION OF REPORT.—

(1) Except as provided in paragraph (2),[5] the report required under subsection (a) shall, to the extent practicable, be submitted in an unclassified form and may be accompanied by a classified appendix.

(2)[6] If the Secretary of State determines that the transmittal of the information with respect to a foreign country under paragraph (3) or (4) of subsection (a) in classified form would make more likely the cooperation of the government of the foreign country as specified in such paragraph, the Secretary may transmit the information under such paragraph in classified form.

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

(1) the term "international terrorism" means terrorism involving citizens or the territory of more than 1 country;

(2) the term "terrorism" means premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents; and

(3) the term "terrorist group" means any group practicing, or which has significant subgroups which practice, international terrorism.

(e) REPORTING PERIOD.—

(1) The report required under subsection (a) shall cover the events of the calendar year preceding the year in which the report is submitted.

(2) The report required by subsection (a) to be submitted by March 31, 1988, may be submitted no later than August 31, 1988.

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[5] Sec. 578(2)(A) 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 "The report" in subsec. (c) and inserted in lieu thereof "(1) Except as provided in paragraph (2), the report". Sec. 578(2)(B) of that Act also indented para. (1).

[6] Sec. 578(2)(C) 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), added para. (2).

7. Department of State and Related Agencies Appropriations Act, 1999

Partial text of Public Law 105–277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681–92, approved October 21, 1998

* * * * * * *

SEC. 101. * * *

(b) For programs, projects, or activities in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

* * * * * * *

TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c), and 22 U.S.C. 2674; and for expenses of general administration, $1,644,300,000: *Provided,* That, of the amount made available under this heading, not to exceed $4,000,000 may be transferred to, and merged with, funds in the "Emergencies in the Diplomatic and Consular Service" appropriations account, to be available only for emergency evacuations and terrorism rewards: * * *

* * * * * * *

8. Emergency Supplemental Appropriations for Fiscal Year 1999

Partial text of Title II of division B of Public Law 105–277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999; H.R. 4328], 112 Stat. 2681–565, approved October 21, 1998

DIVISION B—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

* * * * * * *

TITLE II—ANTITERRORISM

CHAPTER 1

* * * * * * *

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, an additional amount for "Diplomatic and Consular Programs", $773,700,000, to remain available until expended, of which $25,700,000 shall be available only to the extent that an official budget request that includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided,* That as determined by the Secretary of State, such funds may be used to procure services and equipment overseas necessary to improve worldwide security and reconstitute embassy operations in Kenya and Tanzania on behalf of any other agency: *Provided further,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SALARIES AND EXPENSES

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, an additional amount for "Salaries and Expenses", $12,000,000, to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OFFICE OF INSPECTOR GENERAL

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, an additional amount for "Office of Inspector General", $1,000,000, to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, an additional amount for "Security and Maintenance of United States Missions", $627,000,000, to remain available until expended; of which $56,000,000 is for security projects, relocations, and security equipment on behalf of missions of other U.S. Government agencies, which amount may be transferred to any appropriation for this purpose, to be merged with and available for the same time period as the appropriation to which transferred; and of which $185,000,000 is for capital improvements or relocation of office and residential facilities to improve security, which amount shall become available fifteen days after notice thereof has been transmitted to the Appropriations Committees of both Houses of Congress: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, an additional amount for "Emergencies in the Diplomatic and Consular Service", $10,000,000, to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

9. Hostage Relief Act of 1980 [1]

Public Law 96–449 [H.R. 7085], 94 Stat. 1967, approved October 14, 1980

AN ACT To provide certain benefits to individuals held hostage in Iran and to similarly situated individuals, 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 "Hostage Relief Act of 1980".

TITLE I—SPECIAL PERSONNEL BENEFITS

DEFINITIONS

SEC. 101. For purposes of this title—

(1) The term "American hostage" means any individual who, while—

(A) in the civil service or the uniformed services of the United States, or

(B) a citizen or resident alien of the United States rendering personal service to the United States abroad similar to the service of a civil officer or employee of the United States (as determined by the Secretary of State),

is placed in a captive status during the hostage period.

(2) The term "hostage period" means the period beginning on November 4, 1979, and ending on the later of—

(A) the date the President specifies, by Executive order, as the date on which all citizens and resident aliens of the United States who were placed in a captive status due to the seizure of the United States Embassy in Iran have been returned to the United States or otherwise accounted for, or

(B) January 1, 1983.

(3) The term "family member", when used with respect to any American hostage, means—

(A) any dependent (as defined in section 5561 of title 5, United States Code) of such hostage; and

(B) any member of the hostage's family or household (as determined under regulations which the Secretary of State shall prescribe).

(4) The term "captive status" means a missing status arising because of a hostile action abroad—

(A) which is directed against the United States during the hostage period; and

[1] 5 U.S.C. 5561 note. See also sec. 599C of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2064), as amended by sec. 302 of Public Law 102–138 (105 Stat. 707), and further amended by sec. 5 of Public Law 102–499 (106 Stat. 3266), relating to benefits for U.S. hostages in Iraq and Kuwait and U.S. hostages captured in Lebanon.

(B) which is identified by the Secretary of State in the Federal Register.

(5) The term "missing status"—

(A) in the case of employees, has the meaning given it in section 5561(5) of title 5, United States Code;

(B) in the case of members of the uniformed services, has the meaning given it in section 551(2) of title 37, United States Code; and

(C) in the case of other individuals, has a similar meaning as that provided under such sections, as determined by the Secretary of State.

(6) The terms "pay and allowances", "employee", and "agency" have the meanings given to such terms in section 5561 of title 5, United States Code, and the terms "civil service", "uniformed services", and "armed forces" have the meanings given to such terms in section 2101 of such title 5.

PAY AND ALLOWANCES MAY BE ALLOTTED TO SPECIAL SAVINGS FUND

SEC. 102. (a) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any American hostage which are for pay periods during which the American hostage is in a captive status and which are not subject to an allotment under section 5563 of title 5, United States Code, under section 553 of title 37, United States Code, or under any other provision of law.

(b) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

(c) Amounts may be allotted to the savings fund from pay and allowances for any pay period ending after November 4, 1979, and before the establishment of the savings fund. Interest on amounts allotted from the pay and allowances for any such pay period shall be calculated as if the allotment had occurred at the end of the pay period.

(d) Amounts in the savings fund credited to any American hostage shall be considered as pay and allowances for purposes of section 5563 of title 5, United States Code (or in the case of a member of the uniformed services, for purposes of section 553 of title 37, United States Code) and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

MEDICAL AND HEALTH CARE AND RELATED EXPENSES

SEC. 103. Under regulations prescribed by the President, the head of an agency may pay (by advancement or reimbursement) any individual who is an American hostage, or any family member of such an individual, for medical and health care, and other expenses related to such care, to the extent such care—

(1) is incident to that individual being an American hostage; and

(2) is not covered by insurance.

EDUCATION AND TRAINING

SEC. 104. (a)(1) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of an American hostage for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

(2) Except as provided in paragraph (3), payments shall be available under this subsection for a spouse or child of an individual who is an American hostage for education or training which occurs—

(A) after the nineteenth day after the date the individual is placed in a captive status, and

(B) on or before—

(i) the end of any semester or quarter (as appropriate) which begins before the date on which the hostage ceases to be in a captive status, or

(ii) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the twelve-week period following that date.

In order to respond to special circumstances, the President may specify a date for purposes of cessation of assistance under subparagraph (B) which is later than the date which would otherwise apply under subparagraph (B).

(3) In the event an American hostage dies and the death is incident to that individual being an American hostage, payments shall be available under this subsection for a spouse or child of an individual who is an American hostage for education or training which occurs after the date of death.

(4) The preceding provisions of this subsection shall not apply with respect to any spouse or child who is eligible for assistance under chapter 35 of title 38, United States Code.

(b)(1) In order to respond to special circumstances, the head of an agency may, under regulations prescribed by the President, pay (by advancement or reimbursement) an American hostage for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

(2) Payments shall be available under this subsection for an American hostage for education or training which occurs—

(A) after the termination of such hostages' captive status, and

(B) on or before—

(i) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the hostage ceases to be in a captive status, or

(ii) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the twelve-week period following that date.

(c) Assistance under this section shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 1724 of title 38, United States Code.

(d) In no event may assistance be provided under this section for any individual for a period in excess of forty-five months (or the equivalent thereof in part-time education or training).

(e) Regulations prescribed by the President under this section shall provide that the program under this section be consistent with the assistance program under chapters 35 and 36 of title 38, United States Code.

EXTENSION OF APPLICABILITY OF CERTAIN BENEFITS OF THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940

SEC. 105. (a) Under regulations prescribed by the President, an American hostage is entitled to the benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501 et seq.), including the benefits provided by section 701 (50 U.S.C. App. 591) but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 (50 U.S.C. App. 514, 515, 516, 540 through 548, 561 through 572, and 574).

(b) In applying such Act for purposes of this section—

(1) the term "person in the military service" is deemed to include any such American hostage;

(2) the term "period of military service" is deemed to include the period during which such American hostage is in a captive status; and

(3) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed to be references to the Secretary of State.

(c) The preceding provisions of this section shall not apply with respect to any American hostage covered by such provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 by reason of being in the Armed Forces.

APPLICABILITY TO COLOMBIAN HOSTAGE

SEC. 106. Notwithstanding the requirements of section 101(1), for purposes of this title, Richard Starr of Edmonds, Washington, who, as a Peace Corps volunteer, was held captive in Colombia and released on or about February 10, 1980, shall be held and considered to be an American hostage placed in a captive status on November 4, 1979.

EFFECTIVE DATE

SEC. 107. The preceding provisions of this title shall take effect as of November 4, 1979.

TITLE II—TAX PROVISIONS

COMPENSATION EXCLUDED FROM GROSS INCOME

SEC. 201. For purposes of the Internal Revenue Code of 1986,[2] the gross income of an individual who was at any time an American hostage does not include compensation from the United States received for any month during any part of which such individual was—

(1) in captive status, or

(2) hospitalized as a result of such individual's captive status.

INCOME TAXES OF HOSTAGE WHERE DEATH RESULTS FROM CAPTIVE STATUS

SEC. 202. (a) GENERAL RULE.—In the case of an individual who was at any time an American hostage and who dies as a result of injury or disease or physical or mental disability incurred or aggravated while such individual was in captive status—

(1) any tax imposed by subtitle A of the Internal Revenue Code of 1986[2] shall not apply with respect to—

(A) the taxable year in which falls the date of such individual's death, or

(B) any prior taxable year ending on or after the first day such individual was in captive status, and

(2) any tax imposed under such subtitle A for taxable years preceding those specified in paragraph (1) which is unpaid at the date of such individual's death (including interest, additions to the tax, and additional amounts)—

(A) shall not be assessed,

(B) if assessed, the assessment shall be abated, and

(C) if collected, shall be credited or refunded as an overpayment.

(b) DEATH MUST OCCUR WITHIN 2 YEARS OF CESSATION OF CAPTIVE STATUS.—This section shall not apply unless the death of the individual occurs within 2 years after such individual ceases to be in captive status.

SPOUSE MAY FILE JOINT RETURN

SEC. 203. (a) GENERAL RULE.—If an individual is an American hostage who is in captive status, such individual's spouse may elect to file a joint return under section 6013(a) of the Internal Revenue Code of 1986[2] for any taxable year—

(1) which begins on or before the day which is 2 years after the date on which the hostage period ends, and

(2) for which such spouse is otherwise entitled to file such a joint return.

(b) CERTAIN RULES MADE APPLICABLE.—For purposes of subsection (a), paragraphs (2) and (4) of section 6013(f) of such Code (relating to joint return where individual is in missing status) shall

[2] Sec. 2 of the Tax Reform Act of 1986 (Public Law 99–514; 100 Stat. 2095) struck out "Internal Revenue Code of 1954" and inserted in lieu thereof "Internal Revenue Code of 1986", wherever it is cited in any law.

apply as if the election described in subsection (a) of this section were an election described in paragraph (1) of such section 6013(f).

TIME FOR PERFORMING CERTAIN ACTS POSTPONED BY REASON OF CAPTIVE STATUS

SEC. 204. (a) GENERAL RULE.—In the case of any individual who was at any time an American hostage, any period during which he was in captive status (and any period during which he was outside the United States and hospitalized as a result of captive status), and the next 180 days thereafter, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual—

(1) whether any of the acts specified in paragraph (1) of section 7508(a) of the Internal Revenue Code of 1986[2] was performed within the time prescribed therefor, and

(2) the amount of any credit or refund (including interest).

(b) APPLICATION TO SPOUSE.—The provisions of this section shall apply to the spouse of any individual entitled to the benefits of subsection (a). The preceding sentence shall not cause this section to apply to any spouse for any taxable year beginning more than 2 years after the date on which the hostage period ends.

(c) SECTION 7508(d) MADE APPLICABLE.—Subsection (d) of section 7508 of the Internal Revenue Code of 1986[2] shall apply to subsection (a) in the same manner as if the benefits of subsection (a) were provided by subsection (a) of such section 7508.

DEFINITIONS AND SPECIAL RULES

SEC. 205. (a) AMERICAN HOSTAGE.—For purposes of this title, the term "American hostage" means any individual who, while—

(1) in the civil service or the uniformed services of the United States, or

(2) a citizen or resident alien of the United States rendering personal service to the United States abroad similar to the service of a civil officer or employee of the United States (as determined by the Secretary of State),

is placed in a captive status during the hostage period.

(b) HOSTAGE PERIOD.—For purposes of this title, the term "hostage period" means the period beginning on November 4, 1979, and ending on whichever of the following dates is the earlier:

(1) the date the President specifies, by Executive order, as the date on which all citizens and resident aliens of the United States who were placed in a captive status due to the seizure of the United States Embassy in Iran have been returned to the United States or otherwise accounted for, or

(2) December 31, 1981.

(c) CAPTIVE STATUS.—For purposes of this title—

(1) IN GENERAL.—The term "captive status" means a missing status arising because of a hostile action abroad—

(A) which is directed against the United States during the hostage period, and

(B) which is identified by the Secretary of State in the Federal Register.

(2) MISSING STATUS DEFINED.—The term "missing status"—

(A) in the case of employees, has the meaning given it in section 5561(5) of title 5, United States Code,

(B) in the case of members of the uniformed services, has the meaning given it in section 551(2) of title 37, United States Code, and

(C) in the case of other individuals, has a similar meaning as that provided under such sections, as determined by the Secretary of State.

For purposes of the preceding sentence, the term "employee" has the meaning given to such term by section 5561(2) of title 5, United States Code.

(d) HOSPITALIZED AS A RESULT OF CAPTIVE STATUS.—

(1) IN GENERAL.—For purposes of this title, an individual shall be treated as hospitalized as a result of captive status if such individual is hospitalized as a result of injury or disease or physical or mental disability incurred or aggravated while such individual was in captive status.

(2) 2-YEAR LIMIT.—Hospitalization shall be taken into account for purposes of paragraph (1) only if it is hospitalization—

(A) occurring on or before the day which is 2 years after the date on which the individual's captive status ends (or, if earlier, the date on which the hostage period ends), or

(B) which is part of a continuous period of hospitalization which began on or before the day determined under subparagraph (A).

(e) CIVIL SERVICE; UNIFORMED SERVICES.—For purposes of this section, the terms "civil service" and "uniformed services" have the meanings given to such terms by section 2101 of title 5, United States Code.

(f) APPLICATION OF TITLE TO ALL TEHRAN HOSTAGES.—In the case of any citizen or resident alien of the United States who is determined by the Secretary of State to have been held hostage in Tehran at any time during November 1979, for purposes of this title—

(1) such individual shall be treated as an American hostage whether or not such individual meets the requirements of paragraph (1) or (2) of subsection (a), and

(2) if such individual was not in the civil service or the uniformed services of the United States—

(A) section 201 shall be applied by substituting "earned income (as defined in section 911(b) of the Internal Revenue Code of 1986)[2] attributable to" for "compensation from the United States received for", and

(B) the amount excluded from gross income under section 201 for any month shall not exceed the monthly equivalent of the annual rate of basic pay payable for level V of the Executive Schedule.

(g) APPLICATION OF TITLE TO INDIVIDUAL HELD CAPTIVE IN COLOMBIA.—For purposes of this title, Richard Starr of Edmonds, Washington, who, as a Peace Corps volunteer, was held captive in Colombia, shall be treated as an American hostage who was in cap-

tive status beginning on November 4, 1979, and ending on February 10, 1980.

(h) SPECIAL RULES.—

(1) COMPENSATION.—For purposes of this title, the term "compensation" shall not include any amount received as an annuity or as retirement pay.

(2) WAGE WITHHOLDING.—Any amount excluded from gross income under section 201 shall not be treated as wages for purposes of chapter 24 of the Internal Revenue Code of 1986.[2]

STUDY OF TAX TREATMENT OF HOSTAGES

SEC. 206. (a) STUDY.—The Chief of Staff of the Joint Committee on Taxation shall study all aspects of the tax treatment of citizens and resident aliens of the United States who are taken hostage or are otherwise placed in a missing status.

(b) REPORT.—The Chief of Staff of the Joint Committee on Taxation shall, before July 1, 1981, report the results of the study made pursuant to subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE III—TREATMENT OF THE HOSTAGES IN IRAN

VISITS BY THE INTERNATIONAL RED CROSS

SEC. 301. (a) The Congress finds that—

(1) the continued illegal and unjustified detention of the American hostages by the Government of Iran has resulted in the deterioration of relations between the United States and Iran; and

(2) the protracted length and the conditions of their confinement have reportedly endangered the physical and mental well-being of the hostages.

(b) Therefore, it is the sense of the Congress that the President should make a formal request of the International Committee of the Red Cross to—

(1) make regular and periodic visits to the American hostages being held in Iran for the purpose of determining whether the hostages are being treated in a humane and decent manner and whether they are receiving proper medical attention;

(2) urge other countries to solicit the cooperation of the Government of Iran in the visits to the hostages by the International Committee of the Red Cross; and

(3) report to the United States its findings after each such visit.

C. ANTITERRORISM AND DIPLOMATIC SECURITY LEGISLATION

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1. Antiterrorism and Effective Death Penalty Act of 1996

Partial text of Public Law 104–132 [S. 735], 110 Stat. 1214, approved April 24, 1996

NOTE.—Except for the provisions noted below, the Antiterrorism and Effective Death Penalty Act of 1996 amends other legislation and has been incorporated into those laws, or consists of legislation not generally related to foreign policy. Complete text of the Act may be found at 110 Stat. 1214.

AN ACT To deter terrorism, provide justice for victims, provide for an effective death penalty, 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 "Antiterrorism and Effective Death Penalty Act of 1996".

SEC. 2. TABLE OF CONTENTS.

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TITLE II—JUSTICE FOR VICTIMS

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SUBTITLE B—JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES

SEC. 221.[1] JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES. * * *

SUBTITLE C—ASSISTANCE TO VICTIMS OF TERRORISM

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Justice for Victims of Terrorism Act of 1996".

SEC. 232. VICTIMS OF TERRORISM ACT.

(a) AUTHORITY TO PROVIDE ASSISTANCE AND COMPENSATION TO VICTIMS OF TERRORISM.—The Victims of Crime Act of 1984 (42

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[1] Sec. 221 amended 28 USC 1605 and 1610, relating to foreign sovereign immunity. See Sec. C.9.

U.S.C. 10601 et seq.) is amended by inserting after section 1404A the following new section:

"SEC. 1404B.[2] COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM OR MASS VIOLENCE.

"(a) VICTIMS OF ACTS OF TERRORISM OUTSIDE THE UNITED STATES.—The Director[3] may make supplemental grants as provided in section 1404(a) to States to provide compensation and assistance to the residents of such States who, while outside of the territorial boundaries of the United States, are victims of a terrorist act or mass violence and are not persons eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

* * * * * * *

SEC. 233. COMPENSATION OF VICTIMS OF TERRORISM.

(a) * * *

(b)[4] FOREIGN TERRORISM.—Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)(6)(B)) is amended by inserting "are outside of the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18, United States Code), or" before "are States not having".

(c) * * *

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 1 year after the date of enactment of this Act.

* * * * * * *

TITLE III—INTERNATIONAL TERRORISM PROHIBITIONS

SUBTITLE A—PROHIBITION ON INTERNATIONAL TERRORIST FUNDRAISING

SEC. 301.[5] FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) international terrorism is a serious and deadly problem that threatens the vital interests of the United States;

(2) the Constitution confers upon Congress the power to punish crimes against the law of nations and to carry out the treaty obligations of the United States, and therefore Congress may by law impose penalties relating to the provision of material support to foreign organizations engaged in terrorist activity;

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[2] 42 U.S.C. 10603b.

[3] Director of the Crime Victims Fund, Department of the Treasury, as established by the Victims of Crime Act of 1984 (title II of Public Law 98–473; 42 U.S.C. 10601 *et seq.*).

[4] Sec. 1403(b)(6)(B) of the Victims of Crime Act of 1984, as amended, effective April 24, 1997, provides as follows:

"Sec. 10602. Crime victim compensation

"(b) Eligible crime victim compensation programs

* * *

"(6) such program provides compensation to residents of the State who are victims of crimes occurring outside the State if—

"(A) the crimes would be compensable crimes had they occurred inside that State; and

"(B) the places the crimes occurred in are outside of the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18, United States Code), or are States not having eligible crime victim compensation programs;".

[5] 18 U.S.C. 2339B note.

(3) the power of the United States over immigration and naturalization permits the exclusion from the United States of persons belonging to international terrorist organizations;

(4) international terrorism affects the interstate and foreign commerce of the United States by harming international trade and market stability, and limiting international travel by United States citizens as well as foreign visitors to the United States;

(5) international cooperation is required for an effective response to terrorism, as demonstrated by the numerous multilateral conventions in force providing universal prosecutive jurisdiction over persons involved in a variety of terrorist acts, including hostage taking, murder of an internationally protected person, and aircraft piracy and sabotage;

(6) some foreign terrorist organizations, acting through affiliated groups or individuals, raise significant funds within the United States, or use the United States as a conduit for the receipt of funds raised in other nations; and

(7) foreign organizations that engage in terrorist activity are so tainted by their criminal conduct that any contribution to such an organization facilitates that conduct.

(b) PURPOSE.—The purpose of this subtitle is to provide the Federal Government the fullest possible basis, consistent with the Constitution, to prevent persons within the United States, or subject to the jurisdiction of the United States, from providing material support or resources to foreign organizations that engage in terrorist activities.

SEC. 302. DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following: * * *[6]

(b) * * *

SEC. 303. PROHIBITION ON TERRORIST FUNDRAISING.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following new section: * * *[7]

(b) * * *

(c) * * *

SUBTITLE B—PROHIBITION ON ASSISTANCE TO TERRORIST STATES

SEC. 321. FINANCIAL TRANSACTIONS WITH TERRORISTS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the section 2332c added by section 521 of this Act the following new section: * * *[8]

(b) * * *

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[6] Sec. 302 added a new sec. 219 (8 U.S.C. 1189), relating to the designation of foreign terrorist organizations, to the Immigration and Nationality Act. See Sec. 6.1.

[7] Sec. 303(a) added a new sec. 2339B to 18 U.S.C., relating to providing material support or resources to designated foreign terrorist organizations; see Sec. 6.1. Subsecs. (b) and (c) made technical amendments to 18 U.S.C.

[8] Sec. 321(a) added a new sec. 2332d to 18 U.S.C., relating to financial transactions with terrorists. See Sec. 6.1. Subsec. (b) made a technical amendment to the same title.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act.

SEC. 322. FOREIGN AIR TRAVEL SAFETY.

Section 44906 of title 49, United States Code, is amended to read as follows: * * *[9]

SEC. 323. MODIFICATION OF MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended to read as follows: * * *[10]

SEC. 324.[11] FINDINGS.

The Congress finds that—

(1) international terrorism is among the most serious transnational threats faced by the United States and its allies, far eclipsing the dangers posed by population growth or pollution;

(2) the President should continue to make efforts to counter international terrorism a national security priority;

(3) because the United Nations has been an inadequate forum for the discussion of cooperative, multilateral responses to the threat of international terrorism, the President should undertake immediate efforts to develop effective multilateral responses to international terrorism as a complement to national counter terrorist efforts;

(4) the President should use all necessary means, including covert action and military force, to disrupt, dismantle, and destroy international infrastructure used by international terrorists, including overseas terrorist training facilities and safe havens;

(5) the Congress deplores decisions to ease, evade, or end international sanctions on state sponsors of terrorism, including the recent decision by the United Nations Sanctions Committee to allow airline flights to and from Libya despite Libya's noncompliance with United Nations resolutions; and

(6) the President should continue to undertake efforts to increase the international isolation of state sponsors of international terrorism, including efforts to strengthen international sanctions, and should oppose any future initiatives to ease sanctions on Libya or other state sponsors of terrorism.

SEC. 325. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620F the following new section: * * *[12]

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[9] Sec. 322 amended and restated 49 U.S.C. 44906, relating to foreign air carrier security programs. See Sec. F.1.

[10] Sec. 323 amended and restated 18 U.S.C. 2339A, relating to providing material support to terrorists. See Sec. C.3.

[11] 22 U.S.C. 2377 note.

[12] Sec. 325 added a new sec. 620G to the Foreign Assistance Act of 1961 (22 U.S.C. 2377), relating to a prohibition on assistance to countries that aid terrorist states. See Sec. A.1.

SEC. 326. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620G the following new section: * * *[13]

SEC. 327. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.

The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by inserting after section 1620 the following new section: * * *[14]

SEC. 328. ANTITERRORISM ASSISTANCE.

(a) FOREIGN ASSISTANCE ACT.—Section 573 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa–2) is amended—* * *[15]

(b) ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVES DETECTION DEVICES AND OTHER COUNTERTERRORISM TECHNOLOGY.—(1) Subject to section 575(b), up to $3,000,000 in any fiscal year may be made available—

(A) to procure explosives detection devices and other counterterrorism technology; and

(B) for joint counterterrorism research and development projects on such technology conducted with NATO and major non-NATO allies under the auspices of the Technical Support Working Group of the Department of State.

(2) As used in this subsection, the term "major non-NATO allies" means those countries designated as major non-NATO allies for purposes of section 2350a(i)(3) of title 10, United States Code.

(c) ASSISTANCE TO FOREIGN COUNTRIES.—Notwithstanding any other provision of law (except section 620A of the Foreign Assistance Act of 1961) up to $1,000,000 in assistance may be provided to a foreign country for counterterrorism efforts in any fiscal year if—

(1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and

(2) the appropriate committees of Congress are notified not later than 15 days prior to the provision of such assistance.

SEC. 329.[16] DEFINITION OF ASSISTANCE.

For purposes of this title—

(1) the term "assistance" means assistance to or for the benefit of a government of any country that is provided by grant, concessional sale, guaranty, insurance, or by any other means on terms more favorable than generally available in the applicable market, whether in the form of a loan, lease, credit, debt relief, or otherwise, including subsidies for exports to such

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[13] Sec. 326 added a new sec. 620H to the Foreign Assistance Act of 1961 (22 U.S.C. 2377), relating to a prohibition on assistance to countries that provide military equipment to terrorist states. See Sec. A.1.

[14] Sec. 327 added a new sec. 1621 to the International Financial Institutions Act (22 U.S.C. 262p–4q), relating to opposition to assistance by international financial institutions to terrorist states. See Sec. E.9.

[15] See Sec. A.1.

[16] 22 U.S.C. 2349aa)–10 note.

country and favorable tariff treatment of articles that are the growth, product, or manufacture of such country; and

(2) the term "assistance" does not include assistance of the type authorized under chapter 9 of part 1 of the Foreign Assistance Act of 1961 (relating to international disaster assistance).

SEC. 330. PROHIBITION ON ASSISTANCE UNDER ARMS EXPORT CONTROL ACT FOR COUNTRIES NOT COOPERATING FULLY WITH UNITED STATES ANTITERRORISM EFFORTS.

Chapter 3 of the Arms Export Control Act (22 U.S.C. 2771 et seq.) is amended by adding at the end the following: * * *[17]

TITLE IV—TERRORIST AND CRIMINAL ALIEN REMOVAL AND EXCLUSION

SUBTITLE A—REMOVAL OF ALIEN TERRORISTS

SEC. 401. ALIEN TERRORIST REMOVAL.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by adding at the end the following new title: * * *[18]

(b)–(e) * * *

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to all aliens without regard to the date of entry or attempted entry into the United States.

SUBTITLE B—EXCLUSION OF MEMBERS AND REPRESENTATIVES OF TERRORIST ORGANIZATIONS * * *[19]

SUBTITLE C—MODIFICATION TO ASYLUM PROCEDURES * * *[20]

* * * * * * *

TITLE V—NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS RESTRICTIONS

SUBTITLE A—NUCLEAR MATERIALS

SEC. 501.[21] FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) nuclear materials, including byproduct materials, can be used to create radioactive dispersal devices that are capable of causing serious bodily injury as well as substantial damage to property and to the environment;

(2) the potential use of nuclear materials, including byproduct materials, enhances the threat posed by terrorist activities

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[17] Sec. 330 added a new sec. 40A to the Arms Export Control Act (22 U.S.C. 2781), relating to transactions with countries not fully cooperating with United States antiterrorism efforts. See Sec. A.2.

[18] Sec. 401(a) added a new title V to the Immigration and Nationality Act, relating to alien terrorist removal procedures. See 8 U.S.C. 1531–1537. Subsec. (b) through (e) made related technical amendments.

[19] Subtitle B made several amendments to the Immigration and Nationality Act relating to the exclusion of alien terrorists, denial of visas and other relief. See 8 U.S.C. 1182, 1251, 1253, 1254, 1255, and 1259.

[20] Subtitle C made several amendments to the Immigration and Nationality Act relating to asylum procedures. See 8 U.S.C. 1105a, 1158, and 1225.

[21] 18 U.S.C. 831 note.

and thereby has a greater effect on the security interests of the United States;

(3) due to the widespread hazards presented by the threat of nuclear contamination, as well as nuclear bombs, the United States has a strong interest in ensuring that persons who are engaged in the illegal acquisition and use of nuclear materials, including byproduct materials, are prosecuted for their offenses;

(4) the threat that nuclear materials will be obtained and used by terrorist and other criminal organizations has increased substantially since the enactment in 1982 of the legislation that implemented the Convention on the Physical Protection of Nuclear Material, codified at section 831 of title 18, United States Code;

(5) the successful efforts to obtain agreements from other countries to dismantle nuclear weapons have resulted in increased packaging and transportation of nuclear materials, thereby decreasing the security of such materials by increasing the opportunity for unlawful diversion and theft;

(6) the trafficking in the relatively more common, commercially available, and usable nuclear and byproduct materials creates the potential for significant loss of life and environmental damage;

(7) report trafficking incidents in the early 1990's suggest that the individuals involved in trafficking in these materials from Eurasia and Eastern Europe frequently conducted their black market sales of these materials within the Federal Republic of Germany, the Baltic States, the former Soviet Union, Central Europe, and to a lesser extent in the Middle European countries;

(8) the international community has become increasingly concerned over the illegal possession of nuclear and nuclear byproduct materials;

(9) the potentially disastrous ramifications of increased access to nuclear and nuclear byproduct materials pose such a significant threat that the United States must use all lawful methods available to combat the illegal use of such materials;

(10) the United States has an interest in encouraging United States corporations to do business in the countries that comprised the former Soviet Union, and in other developing democracies;

(11) protection of such United States corporations from threats created by the unlawful use of nuclear materials is important to the success of the effort to encourage business ventures in these countries, and to further the foreign relations and commerce of the United States;

(12) the nature of nuclear contamination is such that it may affect the health, environment, and property of United States nationals even if the acts that constitute the illegal activity occur outside the territory of the United States, and are primarily directed toward foreign nationals; and

(13) there is presently no Federal criminal statute that provides adequate protection to United States interests from nonweapons grade, yet hazardous radioactive material, and from

the illegal diversion of nuclear materials that are held for other than peaceful purposes.

(b) PURPOSE.—The purpose of this title is to provide Federal law enforcement agencies with the necessary means and the maximum authority permissible under the Constitution to combat the threat of nuclear contamination and proliferation that may result from the illegal possession and use of radioactive materials.

SEC. 502. EXPANSION OF SCOPE AND JURISDICTIONAL BASES OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—* * *[22]

SEC. 503. REPORT TO CONGRESS ON THEFTS OF EXPLOSIVE MATERIALS FROM ARMORIES.

(a) STUDY.—The Attorney General and the Secretary of Defense shall jointly conduct a study of the number and extent of thefts from military arsenals (including National Guard armories) of firearms, explosives, and other materials that are potentially useful to terrorists.

(b) REPORT TO THE CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Attorney General and the Secretary of Defense shall jointly prepare and transmit to the Congress a report on the findings of the study conducted under subsection (a).

SUBTITLE B—BIOLOGICAL WEAPONS RESTRICTIONS

SEC. 511.[23] ENHANCED PENALTIES AND CONTROL OF BIOLOGICAL AGENTS.

(a) FINDINGS.—The Congress finds that—

(1) certain biological agents have the potential to pose a severe threat to public health and safety;

(2) such biological agents can be used as weapons by individuals or organizations for the purpose of domestic or international terrorism or for other criminal purposes;

(3) the transfer and possession of potentially hazardous biological agents should be regulated to protect public health and safety; and

(4) efforts to protect the public from exposure to such agents should ensure that individuals and groups with legitimate objectives continue to have access to such agents for clinical and research purposes.

(b) CRIMINAL ENFORCEMENT.—Chapter 10 of title 18, United States Code, is amended— * * *[24]

(c) TERRORISM.—Section 2332a(a) of title 18, United States Code,[25] is amended by inserting ", including any biological agent, toxin, or vector (as those terms are defined in section 178)" after "destruction".

(d) REGULATORY CONTROL OF BIOLOGICAL AGENTS.—

(1) LIST OF BIOLOGICAL AGENTS.—

(A) IN GENERAL.—The Secretary shall, through regulations promulgated under subsection (f), establish and

[22] See Sec. C.3.
[23] 42 U.S.C. 262 note.
[24] Subsec. (b) amended 18 U.S.C. 175–178. For text, see Sec. C.3.
[25] See Sec. C.3.

maintain a list of each biological agent that has the potential to pose a severe threat to public health and safety.

(B) CRITERIA.—In determining whether to include an agent on the list under subparagraph (A), the Secretary shall—

(i) consider—

(I) the effect on human health of exposure to the agent;

(II) the degree of contagiousness of the agent and the methods by which the agent is transferred to humans;

(III) the availability and effectiveness of immunizations to prevent and treatments for any illness resulting from infection by the agent; and

(IV) any other criteria that the Secretary considers appropriate; and

(ii) consult with scientific experts representing appropriate professional groups.

(e) REGULATION OF TRANSFERS OF LISTED BIOLOGICAL AGENTS.—The Secretary shall, through regulations promulgated under subsection (f), provide for—

(1) the establishment and enforcement of safety procedures for the transfer of biological agents listed pursuant to subsection (d)(1), including measures to ensure—

(A) proper training and appropriate skills to handle such agents; and

(B) proper laboratory facilities to contain and dispose of such agents;

(2) safeguards to prevent access to such agents for use in domestic or international terrorism or for any other criminal purpose;

(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent in violation of the safety procedures established under paragraph (1) or the safeguards established under paragraph (2); and

(4) appropriate availability of biological agents for research, education, and other legitimate purposes.

(f) REGULATIONS.—The Secretary shall carry out this section by issuing—

(1) proposed rules not later than 60 days after the date of enactment of this Act; and

(2) final rules not later than 120 days after the date of enactment of this Act.

(g) DEFINITIONS.—For purposes of this section—

(1) the term "biological agent" has the same meaning as in section 178 of title 18, United States Code; and

(2) the term "Secretary" means the Secretary of Health and Human Services.

SUBTITLE C—CHEMICAL WEAPONS RESTRICTIONS

SEC. 521. CHEMICAL WEAPONS OF MASS DESTRUCTION; STUDY OF FACILITY FOR TRAINING AND EVALUATION OF PERSONNEL WHO RESPOND TO USE OF CHEMICAL OR BIOLOGICAL WEAPONS IN URBAN AND SUBURBAN AREAS.

(a) CHEMICAL WEAPONS OF MASS DESTRUCTION.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332b as added by section 702 of this Act the following new section: * * *[26]

(b)[27] STUDY OF FACILITY FOR TRAINING AND EVALUATION OF PERSONNEL WHO RESPOND TO USE OF CHEMICAL OR BIOLOGICAL WEAPONS IN URBAN AND SUBURBAN AREAS.—

(1) FINDINGS.—The Congress finds that—

(A) the threat of the use of chemical and biological weapons by Third World countries and by terrorist organizations has increased in recent years and is now a problem of worldwide significance;

(B) the military and law enforcement agencies in the United States that are responsible for responding to the use of such weapons require additional testing, training, and evaluation facilities to ensure that the personnel of such agencies discharge their responsibilities effectively; and

(C) a facility that recreates urban and suburban locations would provide an especially effective environment in which to test, train, and evaluate such personnel for that purpose.

(2) STUDY OF FACILITY.—

(A) IN GENERAL.—The President shall establish an interagency task force to determine the feasibility and advisability of establishing a facility that recreates both an urban environment and a suburban environment in such a way as to permit the effective testing, training, and evaluation in such environments of government personnel who are responsible for responding to the use of chemical and biological weapons in the United States.

(B) DESCRIPTION OF FACILITY.—The facility considered under subparagraph (A) shall include—

(i) facilities common to urban environments (including a multistory building and an underground rail transit system) and to suburban environments;

(ii) the capacity to produce controllable releases of chemical and biological agents from a variety of urban and suburban structures, including laboratories, small buildings, and dwellings;

(iii) the capacity to produce controllable releases of chemical and biological agents into sewage, water, and air management systems common to urban areas and suburban areas;

(iv) chemical and biocontaminant facilities at the P3 and P4 levels;

[26] Sec. 521(a) added a new sec. 2332c to 18 U.S.C., relating to the use of chemical weapons. See Sec. C.3. Subsec. (c) made a clerical amendment to 18 U.S.C.

[27] 50 U.S.C. 1522 note.

(v) the capacity to test and evaluate the effectiveness of a variety of protective clothing and facilities and survival techniques in urban areas and suburban areas; and

(vi) the capacity to test and evaluate the effectiveness of variable sensor arrays (including video, audio, meteorological, chemical, and biosensor arrays) in urban areas and suburban areas.

(C) SENSE OF CONGRESS.—It is the sense of Congress that the facility considered under subparagraph (A) shall, if established—

(i) be under the jurisdiction of the Secretary of Defense; and

(ii) be located at a principal facility of the Department of Defense for the testing and evaluation of the use of chemical and biological weapons during any period of armed conflict.

(c) * * *

TITLE VI—IMPLEMENTATION OF PLASTIC EXPLOSIVES CONVENTION

SEC. 601.[28] FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) plastic explosives were used by terrorists in the bombings of Pan American Airlines flight number 103 in December 1988 and UTA flight number 722 in September 1989;

(2) plastic explosives can be used with little likelihood of detection for acts of unlawful interference with civil aviation, maritime navigation, and other modes of transportation;

(3) the criminal use of plastic explosives places innocent lives in jeopardy, endangers national security, affects domestic tranquility, and gravely affects interstate and foreign commerce;

(4) the marking of plastic explosives for the purpose of detection would contribute significantly to the prevention and punishment of such unlawful acts; and

(5) for the purpose of deterring and detecting such unlawful acts, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991, requires each contracting State to adopt appropriate measures to ensure that plastic explosives are duly marked and controlled.

(b) PURPOSE.—The purpose of this title is to fully implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

* * * * * * *

[28] 18 U.S.C. 841 note. Secs. 602–605 of this title amended 18 U.S.C. to implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal, March 1, 1991. See 18 U.S.C. 841, 842, 844, 845. Sec. 606 amended sec. 596(c)(1) of the Tariff Act of 1930; see 19 U.S.C. 1595a(c)(1)).

SEC. 607.[29] EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title shall take effect 1 year after the date of enactment of this Act.

TITLE VII—CRIMINAL LAW MODIFICATIONS TO COUNTER TERRORISM

SUBTITLE A—CRIMES AND PENALTIES

* * * * * * *

SEC. 702. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.

(a) OFFENSE.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332a the following new section: * * *[30]

* * * * * * *

SEC. 709. DETERMINATION OF CONSTITUTIONALITY OF RESTRICTING THE DISSEMINATION OF BOMB-MAKING INSTRUCTIONAL MATERIALS.

(a) STUDY.—The Attorney General, in consultation with such other officials and individuals as the Attorney General considers appropriate, shall conduct a study concerning—

(1) the extent to which there is available to the public material in any medium (including print, electronic, or film) that provides instruction on how to make bombs, destructive devices, or weapons of mass destruction;

(2) the extent to which information gained from such material has been used in incidents of domestic or international terrorism;

(3) the likelihood that such information may be used in future incidents of terrorism;

(4) the application of Federal laws in effect on the date of enactment of this Act to such material;

(5) the need and utility, if any, for additional laws relating to such material; and

(6) an assessment of the extent to which the first amendment protects such material and its private and commercial distribution.

(b) REPORT.—

(1) REQUIREMENT.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section.

(2) AVAILABILITY.—The Attorney General shall make the report submitted under this subsection available to the public.

* * * * * * *

[29] 18 U.S.C. 841 note.

[30] Sec. 702(a) added a new sec. 2332b to 18, U.S.C., relating to acts of terrorism transcending national boundaries. See Sec. C.3. Subsecs. (b) and (c) made technical amendments.

TITLE VIII—ASSISTANCE TO LAW ENFORCEMENT

SUBTITLE A—RESOURCES AND SECURITY

SEC. 801.[31] OVERSEAS LAW ENFORCEMENT TRAINING ACTIVITIES.

The Attorney General and the Secretary of the Treasury are authorized to support law enforcement training activities in foreign countries, in consultation with the Secretary of State, for the purpose of improving the effectiveness of the United States in investigating and prosecuting transnational offenses.

* * * * * * *

SEC. 807.[32] COMBATTING INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) IN GENERAL.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary"), in consultation with the advanced counterfeit deterrence steering committee, shall—

(1) study the use and holding of United States currency in foreign countries; and

(2) develop useful estimates of the amount of counterfeit United States currency that circulates outside the United States each year.

(b) EVALUATION AUDIT PLAN.—

(1) IN GENERAL.—The Secretary shall develop an effective international evaluation audit plan that is designed to enable the Secretary to carry out the duties described in subsection (a) on a regular and thorough basis.

(2) SUBMISSION OF DETAILED WRITTEN SUMMARY.—The Secretary shall submit a detailed written summary of the evaluation audit plan developed pursuant to paragraph (1) to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act.

(3) FIRST EVALUATION AUDIT UNDER PLAN.—The Secretary shall begin the first evaluation audit pursuant to the evaluation audit plan no later than the end of the 1-year period beginning on the date of the enactment of this Act.

(4) SUBSEQUENT EVALUATION AUDITS.—At least 1 evaluation audit shall be performed pursuant to the evaluation audit plan during each 3-year period beginning after the date of the commencement of the evaluation audit referred to in paragraph (3).

(c) REPORTS.—

(1) IN GENERAL.—The Secretary shall submit a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of each evaluation audit conducted pursuant to subsection (b) within 90 days after the completion of the evaluation audit.

(2) CONTENTS.—In addition to such other information as the Secretary may determine to be appropriate, each report submitted to the Congress pursuant to paragraph (1) shall include the following information:

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[31] 28 U.S.C. 509 note.
[32] 18 U.S.C. 470 note.

(A) A detailed description of the evaluation audit process and the methods used to develop estimates of the amount of counterfeit United States currency in circulation outside the United States.

(B) The method used to determine the currency sample examined in connection with the evaluation audit and a statistical analysis of the sample examined.

(C) A list of the regions of the world, types of financial institutions, and other entities included.

(D) An estimate of the total amount of United States currency found in each region of the world.

(E) The total amount of counterfeit United States currency and the total quantity of each counterfeit denomination found in each region of the world.

(3) CLASSIFICATION OF INFORMATION.—

(A) IN GENERAL.—To the greatest extent possible, each report submitted to the Congress under this subsection shall be submitted in an unclassified form.

(B) CLASSIFIED AND UNCLASSIFIED FORMS.—If, in the interest of submitting a complete report under this subsection, the Secretary determines that it is necessary to include classified information in the report, the report shall be submitted in a classified and an unclassified form.

(d) SUNSET PROVISION.—This section shall cease to be effective as of the end of the 10-year period beginning on the date of the enactment of this Act.

(e) RULE OF CONSTRUCTION.—No provision of this section shall be construed as authorizing any entity to conduct investigations of counterfeit United States currency.

(f) FINDINGS.—The Congress hereby finds the following:

(1) United States currency is being counterfeited outside the United States.

(2) The One Hundred Third Congress enacted, with the approval of the President on September 13, 1994, section 470 of title 18, United States Code, making such activity a crime under the laws of the United States.

(3) The expeditious posting of agents of the United States Secret Service to overseas posts, which is necessary for the effective enforcement of section 470 and related criminal provisions, has been delayed.

(4) While section 470 of title 18, United States Code, provides for a maximum term of imprisonment of 20 years as opposed to a maximum term of 15 years for domestic counterfeiting, the United States Sentencing Commission has failed to provide, in its sentencing guidelines, for an appropriate enhancement of punishment for defendants convicted of counterfeiting United States currency outside the United States.

(g) TIMELY CONSIDERATION OF REQUESTS FOR CONCURRENCE IN CREATION OF OVERSEAS POSTS.—

(1) IN GENERAL.—The Secretary of State shall—

(A) consider in a timely manner the request by the Secretary of the Treasury for the placement of such number of agents of the United States Secret Service as the Sec-

retary of the Treasury considers appropriate in posts in overseas embassies; and

(B) reach an agreement with the Secretary of the Treasury on such posts as soon as possible and, in any event, not later than December 31, 1996.

(2) COOPERATION OF TREASURY REQUIRED.—The Secretary of the Treasury shall promptly provide any information requested by the Secretary of State in connection with such requests.

(3) REPORTS REQUIRED.—The Secretary of the Treasury and the Secretary of State shall each submit, by February 1, 1997, a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate explaining the reasons for the rejection, if any, of any proposed post and the reasons for the failure, if any, to fill any approved post by such date.

(h) ENHANCED PENALTIES FOR INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.—Pursuant to the authority of the United States Sentencing Commission under section 994 of title 28, United States Code, the Commission shall amend the sentencing guidelines prescribed by the Commission to provide an appropriate enhancement of the punishment for a defendant convicted under section 470 of title 18 of such Code.

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SUBTITLE B—FUNDING AUTHORIZATIONS FOR LAW ENFORCEMENT

* * * * * * *

SEC. 820. ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVE DETECTION DEVICES AND OTHER COUNTERTERRORISM TECHNOLOGY.

There are authorized to be appropriated to the National Institute of Justice Office of Science and Technology not more than $10,000,000 for each of the fiscal years 1997 and 1998 to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States, or puts United States nationals at risk, in—

(1) obtaining explosive detection devices and other counterterrorism technology;

(2) conducting research and development projects on such technology; and

(3) testing and evaluating counterterrorism technologies in those countries.

SEC. 821. RESEARCH AND DEVELOPMENT TO SUPPORT COUNTERTERRORISM TECHNOLOGIES.

There are authorized to be appropriated to the National Institute of Justice Office of Science and Technology not more than $10,000,000 for fiscal year 1997, to—

(1) develop technologies that can be used to combat terrorism, including technologies in the areas of—

(A) detection of weapons, explosives, chemicals, and persons;

(B) tracking;

(C) surveillance;

(D) vulnerability assessment; and

(E) information technologies;

(2) develop standards to ensure the adequacy of products produced and compatibility with relevant national systems; and

(3) identify and assess requirements for technologies to assist State and local law enforcement in the national program to combat terrorism.

* * * * * * *

SEC. 823. FUNDING SOURCE.

Appropriations for activities authorized in this subtitle may be made from the Violent Crime Reduction Trust Fund.

2. Omnibus Diplomatic Security and Antiterrorism Act of 1986

Partial text of Public Law 99–399 [H.R. 4151], 100 Stat. 853, approved August 27, 1986, as amended

AN ACT To provide enhanced diplomatic security and combat international terrorism, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,[1]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Diplomatic Security and Antiterrorism Act of 1986".

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TITLE I—DIPLOMATIC SECURITY

SEC. 101. SHORT TITLE.

Titles I through IV of this Act may be cited as the "Diplomatic Security Act".

SEC. 102.[2] FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) the United States has a crucial stake in the presence of United States Government personnel representing United States interests abroad;

(2) conditions confronting United States Government personnel and missions abroad are fraught with security concerns which will continue for the foreseeable future; and

(3) the resources now available to counter acts of terrorism and protect and secure United States Government personnel and missions abroad, as well as foreign officials and missions in the United States, are inadequate to meet the mounting threat to such personnel and facilities.

(b)[3] PURPOSES.—The purposes of titles I through IV are—

(1) to set forth the responsibility of the Secretary of State with respect to the security of diplomatic operations in the United States and abroad;

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[2] 22 U.S.C. 4801.

[3] Sec. 162(g)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 406), struck out para. (2) and redesignated paras. (3) through (6) as paras. (2) through (5), respectively. Para. (2) had provided:

"(2) to provide for an Assistant Secretary of State to head the Bureau of Diplomatic Security of the Department of State, and to set forth certain provisions relating to the Diplomatic Security Service of the Department of State;".

(2) to maximize coordination by the Department of State with Federal, State, and local agencies and agencies of foreign governments in order to enhance security programs;

(3) to promote strengthened security measures and to provide for the accountability of United States Government personnel with security-related responsibilities;

(4) to set forth the responsibility of the Secretary of State with respect to the safe and efficient evacuation of United States Government personnel, their dependents, and private United states citizens when their lives are endangered by war, civil unrest, or natural disaster; and

(5) to provide authorization of appropriations for the Department of State to carry out its responsibilities in the area of security and counterterrorism, and in particular to finance the acquisition and improvements of United States Government missions abroad, including real property, buildings, facilities, and communications, information, and security systems.

SEC. 103.[4] RESPONSIBILITY OF THE SECRETARY OF STATE

(a) SECURITY FUNCTIONS.—(1) The Secretary of State shall develop and implement (in consultation with the heads of other Federal agencies having personnel or missions abroad where appropriate and within the scope of the resources made available) policies and programs, including funding levels and standards, to provide for the security of United States Government operations of a diplomatic nature and foreign government operations of a diplomatic nature in the United States. Such policies and programs shall include—

(A) protection of all United States Government personnel on official duty abroad (other than those personnel under the command of a United States area military commander) and their accompanying dependents;

(B) establishment and operation of security functions at all United States Government missions abroad (other than facilities or installations subject to the control of a United States area military commander);

(C) establishment and operation of security functions at all Department of State facilities in the United States; and

(D) protection of foreign missions, international organizations, and foreign officials and other foreign persons in the United States, as authorized by law.

(2)[5] Security responsibilities shall include the following:

(A) FORMER OFFICE OF SECURITY FUNCTIONS.—Functions and responsibilities exercised by the Office of Security, Department of State, before November 11, 1985.

(B) SECURITY AND PROTECTIVE OPERATIONS.—

(i) Establishment and operation of post security and protective functions abroad.

(ii) Development and implementation of communications, computer, and information security.

(iii) Emergency planning.

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[4] 22 U.S.C. 4802.

[5] The Secretary of State delegated functions authorized under this subsection to the Assistant Secretary for Diplomatic Security (Department of State Public Notice 2086; sec. 8 of Delegation of Authority No. 214; 59 F.R. 50790).

(iv) Establishment and operation of local guard services abroad.

(v) Supervision of the United States Marine Corps security guard program.

(vi) Liaison with American overseas private sector security interests.

(vii) Protection of foreign missions and international organizations, foreign officials, and diplomatic personnel in the United States, as authorized by law.

(viii) Protection of the Secretary of State and other persons designated by the Secretary of State, as authorized by law.

(ix) Physical protection of Department of State facilities, communications, and computer and information systems in the United States.

(x) Conduct of investigations relating to protection of foreign officials and diplomatic personnel and foreign missions in the United States, suitability for employment, employee security, illegal passport and visa issuance or use, and other investigations, as authorized by law.

(xi) Carrying out the rewards program for information concerning international terrorism authorized by section 36(a) of the State Department Basic Authorities Act of 1956.

(xii) Performance of other security, investigative, and protective matters as authorized by law.

(C) COUNTERTERRORISM PLANNING AND COORDINATION.—Development and coordination of counterterrorism planning, emergency action planning, threat analysis programs, and liaison with other Federal agencies to carry out this paragraph.

(D) SECURITY TECHNOLOGY.—Development and implementation of technical and physical security programs, including security-related construction, radio and personnel security communications, armored vehicles, computer and communications security, and research programs necessary to develop such measures.

(E) DIPLOMATIC COURIER SERVICE.—Management of the diplomatic courier service.

(F) PERSONNEL TRAINING.—Development of facilities, methods, and materials to develop and upgrade necessary skills in order to carry out this section.

(G) FOREIGN GOVERNMENT TRAINING.—Management and development of antiterrorism assistance programs to assist foreign government security training which are administered by the Department of State under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.).

(b) OVERSEAS EVACUATIONS.—The Secretary of State shall develop and implement policies and programs to provide for the safe and efficient evacuation of United States Government personnel, dependents, and private United States citizens when their lives are endangered. Such policies shall include measures to identify high risk areas where evacuation may be necessary and, where appropriate, providing staff to United States Government missions

abroad to assist in those evacuations. In carrying out these responsibilities, the Secretary shall—

(1) develop a model contingency plan for evacuation of personnel, dependents, and United States citizens from foreign countries;

(2) develop a mechanism whereby United States citizens can voluntarily request to be placed on a list in order to be contacted in the event of an evacuation, or which, in the event of an evacuation, can maintain information on the location of United States citizens in high risk areas submitted by their relatives;

(3) assess the transportation and communications resources in the area being evacuated and determine the logistic support needed for the evacuation; and

(4) develop a plan for coordinating communications between embassy staff, Department of State personnel, and families of United States citizens abroad regarding the whereabouts of those citizens.

(c) OVERSIGHT OF POSTS ABROAD.—The Secretary of State shall—

(1) have full responsibility for the coordination of all United States Government personnel assigned to diplomatic or consular posts or other United States missions abroad pursuant to United States Government authorization (except for facilities, installations, or personnel under the command of a United States area military commander);

(2) establish appropriate overseas staffing levels for all such posts or missions for all Federal agencies with activities abroad (except for personnel and activities under the command of a United States area military commander or regional inspector general offices under the jurisdiction of the Inspector General, Agency for International Development).

(d)[5] FEDERAL AGENCY.—As used in this title and title III, the term "Federal agency" includes any department or agency of the United States Government.

SEC. 104.[6] * * * [Repealed—1994]

SEC. 105.[7] * * * [Repealed—1994]

SEC. 106.[8] COOPERATION OF OTHER FEDERAL AGENCIES.

(a) ASSISTANCE.—In order to facilitate fulfillment of the responsibilities described in section 103(a), other Federal agencies shall cooperate (through agreements) to the maximum extent possible with the Secretary of State. Such agencies may, with or without reimbursement, provide assistance to the Secretary, perform security inspections, provide logistical support relating to the differing missions and facilities of other Federal agencies, and perform other overseas security functions as may be authorized by the Secretary. Specifically, the Secretary may agree to delegate operational control of overseas security functions of other Federal agencies to the

[6] Formerly at 22 U.S.C. 4803. Sec. 162(g)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 407), repealed sec. 104, which established the Bureau of Diplomatic Security, overseen by the Assistant Secretary for Diplomatic Security.

[7] Formerly at 22 U.S.C. 4804. Sec. 162(g)(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 407), repealed sec. 105, which stated the responsibilities of the Assistant Secretary for Diplomatic Security.

[8] 22 U.S.C. 4805.

heads of such agencies, subject to the Secretary's authority as set forth in section 103(a). The agency head receiving such delegated authority shall be responsible to the Secretary in the exercise of the delegated operational control.

(b) OTHER AGENCIES.—Nothing contained in titles I through IV shall be construed to limit or impair the authority or responsibility of any other Federal, State, or local agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

(c) CERTAIN LEASE ARRANGEMENTS.—The Administrator of General Services is authorized to lease (to such extent or in cash amounts as are provided in appropriation Acts) such amount of space in the United States as may be necessary for the Department of State to accommodate the personnel required to carry out this title. The Department of State shall pay for such space at the rate established by the Administrator of General Services for space and related services.

SEC. 107.[9] PROTECTION OF FOREIGN CONSULATES.

The Secretary of State shall take into account security considerations [10] in making determinations with respect to accreditation of all foreign consular personnel in the United States.

TITLE II—PERSONNEL [11]

SEC. 201. DIPLOMATIC SECURITY SERVICE.

The Secretary of State may establish a Diplomatic Security Service, which shall perform such functions as the Secretary may determine.

SEC. 202.[12] DIRECTOR OF DIPLOMATIC SECURITY SERVICE.

Any such Diplomatic Security Service should be headed by a Director designated by the Secretary of State. The Director should be a career member of the Senior Foreign Service or the Senior Executive Service and shall be qualified for the position by virtue of demonstrated ability in the areas of security, law enforcement, management, and public administration. Experience in management or operations abroad should be considered an affirmative factor in the selection of the Director.

SEC. 203.[13] SPECIAL AGENTS.

Special agent positions shall be filled in accordance with the provisions of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) and title 5, United States Code. In filling such positions, the Secretary of State shall actively recruit women and members of minority groups. The Secretary of State shall prescribe the qualifications required for assignment or appointment to such positions. The

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[9] 22 U.S.C. 4806. The Secretary of State delegated functions authorized under this section to the Chief of Protocol (Department of State Public Notice 2086; sec. 15 of Delegation of Authority No. 214; 59 F.R. 50790).

[10] Sec. 162(g)(5) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 407), struck out "The Chief of Protocol of the Department of State shall consult with the Assistant Secretary of Diplomatic Security" and inserted in lieu thereof "The Secretary of State shall take into account security considerations".

[11] Sec. 162(g)(6) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 407), struck out "DIPLOMATIC SECURITY SERVICE" and inserted in lieu thereof "PERSONNEL".

[12] 22 U.S.C. 4822.

[13] 22 U.S.C. 4823.

qualifications may include minimum and maximum entry age restrictions and other physical standards and shall incorporate such standards as may be required by law in order to perform security functions, to bear arms, and to exercise investigatory, warrant, arrest, and such other authorities, as are available by law to special agents of the Department of State and the Foreign Service.

SEC. 206.[14] CONTRACTING AUTHORITY.

The Secretary of State is authorized to employ individuals or organizations by contract to carry out the purposes of this Act, and individuals employed by contract to perform such services shall not by virtue of such employment be considered to be employees of the United States Government for purposes of any law administered by the Office of Personnel Management (except that the Secretary may determine the applicability to such individuals of any law administered by the Secretary concerning the employment of such individuals); and such contracts are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary, without regard to such statutory provisions as relate to the negotiation, making and performance of contracts and performance of work in the United States.

TITLE III—PERFORMANCE AND ACCOUNTABILITY

SEC. 301.[15] ACCOUNTABILITY REVIEW.

In any case of serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad, and in any case of a serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad, which is covered by the provisions of titles I through IV (other than a facility or installation subject to the control of a United States area military commander), the Secretary of State shall convene an Accountability Review Board [16] (hereafter in this title referred to as the "Board"). With respect to breaches of security involving intelligence activities, the Secretary of State may delay establishing an Accountability Review Board if, after consultation with the Chairman of the Select Committee on Intelligence of the Senate and the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives, the Secretary determines that doing so would compromise intelligence sources and methods. The Secretary shall

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[14] 22 USC 4824. Sec. 206 was added by Public Law 105–277 (112 Stat. 2681–586).

[15] 22 U.S.C. 4831.

[16] In Department of State Public Notice 2349 (61 F.R. 8322; February 22, 1996), the Deputy Secretary of State:

"* * * determined that the November 13, 1995, car-bomb attack on the headquarters of the Office of Program Manager, Saudi Arabian National Guard in Riyadh, Saudi Arabia, involved loss of life related to a U.S. mission abroad. Therefore, I am convening an Accountability Review Board, as required by that statute, to examine the facts and circumstances of the attack and report to me such findings and recommendations as it deems appropriate, * * *".

In Department of State Public Notice 2191 (60 F.R. 21020; April 28, 1995), the Deputy Secretary of State:

"* * * determined that the March 8, 1995, terrorist attack on the Consulate shuttle bus in Karachi, Pakistan, involved loss of life related to a U.S. mission abroad. Therefore I am convening an Accountability Review Board, as required by that statute, to examine the facts and circumstances of the attack and report to me such findings and recommendations as it deems appropriate, * * *.".

Previously, an accountability review board was convened to investigate an explosion at the U.S. ambassador's residence in Lima, Peru (State Department Public Notice 1587; April 15, 1992; 57 F.R. 14744).

promptly advise the Chairmen of such committees of each determination pursuant to this section to delay the establishment of an Accountability Review Board. The Secretary shall not convene a Board where the Secretary determines that a case clearly involves only causes unrelated to security.

SEC. 302.[17] ACCOUNTABILITY REVIEW BOARD.

(a) MEMBERSHIP.—A Board shall consist of five members, 4 appointed by the Secretary of State, and 1 appointed by the Director of Central Intelligence. The Secretary of State shall designate the Chairperson of the Board. Members of the Board who are not Federal officers or employees shall each be paid at a rate not to exceed the maximum rate of basic pay payable for level GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board. Members of the Board who are Federal officers or employees shall receive no additional pay by reason of such membership.

(b) FACILITIES, SERVICES, SUPPLIES, AND STAFF.—

(1) SUPPLIED BY DEPARTMENT OF STATE.—A Board shall obtain facilities, services, and supplies through the Department of State. All expenses of the Board, including necessary costs of travel, shall be paid by the Department of State. Travel expenses authorized under this paragraph shall be paid in accordance with subchapter I of chapter 57 of title 5, United States Code or other applicable law.

(2) DETAIL.—At the request of a Board, employees of the Department of State or other Federal agencies, members of the Foreign Service, or members of the uniformed services may be temporarily assigned, with or without reimbursement, to assist the Board.

(3) EXPERTS AND CONSULTANTS.—A Board may employ and compensate (in accordance with section 3109 of title 5, United States Code) such experts and consultants as the Board considers necessary to carry out its functions. Experts and consultants so employed shall be responsible solely to the Board.

SEC. 303.[18] PROCEDURES.

(a) EVIDENCE.—

(1) UNITED STATES GOVERNMENT PERSONNEL AND CONTRACTORS.—

(A) With respect to any individual described in subparagraph (B), a Board may—

(i) administer oaths and affirmations;

(ii) require that depositions be given and interrogatories answered; and

(iii) require the attendance and presentation of testimony and evidence by such individual.

Failure of any such individual to comply with a request of the Board shall be grounds for disciplinary action by the head of the Federal agency in which such individual is employed or serves, or in the case of a contractor, debarment.

(B) The individuals referred to in subparagraph (A) are—

[17] 22 U.S.C. 4832.
[18] 22 U.S.C. 4833.

(i) employees as defined by section 2105 of title 5, United States Code (including members of the Foreign Service);

(ii) members of the uniformed services as defined by section 101(3) of title 37, United States Code;

(iii) employees of instrumentalities of the United States; and

(iv) individuals employed by any person or entity under contract with agencies or instrumentalities of the United States Government to provide services, equipment, or personnel.

(2) OTHER PERSONS.—With respect to a person who is not described in paragraph (1)(B), a Board may administer oaths and affirmations and require that depositions be given and interrogatories answered.

(3) SUBPOENAS.—(A) The Board may issue a subpoena for the attendance and testimony of any person (other than a person described in clause (i), (ii), or (iii) of paragraph (1)(B)) and the production of documentary or other evidence from any such person if the Board finds that such a subpoena is necessary in the interests of justice for the development of relevant evidence.

(B) In the case of contumacy of refusal to obey a subpoena issued under this paragraph, a court of the United States within the jurisdiction of which a person is directed to appear or produce information, or within the jurisdiction of which the person is found, resides, or transacts business, may upon application of the Attorney General, issue to such person an order requiring such person to appear before the Board to give testimony or produce information as required by the subpoena.

(C) Subpoenaed witnesses shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

(b) CONFIDENTIALITY.—A Board shall adopt for administrative proceedings under this title such procedures with respect to confidentiality as may be deemed necessary, including procedures relating to the conduct of closed proceedings or the submission and use of evidence in camera, to ensure in particular the protection of classified information relating to national defense, foreign policy, or intelligence matters. The Director of Central Intelligence shall establish the level of protection required for intelligence information and for information relating to intelligence personnel, including standards for secure storage.

(c) RECORDS.—Records pertaining to administrative proceedings under this title shall be separated from all other records of the Department of State and shall be maintained under appropriate safeguards to preserve confidentiality and classification of information. Such records shall be prohibited from disclosure to the public until such time as a Board completes its work and is dismissed. The Department of State shall turn over to the Director of Central Intelligence intelligence information and information relating to intelligence personnel which shall then become records of the Central Intelligence Agency. After that time, only such exemptions from disclosure under section 552(b) of title 5, United States Code (relat-

ing to freedom of information), as apply to other records of the Department of State, and to any information transmitted under section 304(c) to the head of a Federal agency or instrumentality, shall be available for the remaining records of the Board.

(d) STATUS OF BOARDS.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) and section 552b of title 5 of the United States Code (relating to open meetings) shall not apply to any Board.

SEC. 304.[19] FINDINGS AND RECOMMENDATIONS BY A BOARD.

(a) FINDINGS.—A Board convened in any case shall examine the facts and circumstances surrounding the serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad or surrounding the serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad (as the case may be) and shall make written findings determining—

(1) the extent to which the incident or incidents with respect to which the Board was convened was security related;

(2) whether the security systems and security procedures at that mission were adequate;

(3) whether the security systems and security procedures were properly implemented;

(4) the impact of intelligence and information availability; and

(5) such other facts and circumstances which may be relevant to the appropriate security management of United States missions abroad.

(b) PROGRAM RECOMMENDATIONS.—A Board shall submit its findings (which may be classified to the extent deemed necessary by the Board) to the Secretary of State, together with recommendations as appropriate to improve the security and efficiency of any program or operation which the Board has reviewed.

(c) PERSONNEL RECOMMENDATIONS.—Whenever a Board finds reasonable cause to believe that an individual described in section 303(a)(1)(B) has breached the duty of that individual, the Board shall—

(1) notify the individual concerned,

(2) transmit the finding of reasonable cause, together with all information relevant to such finding, to the head of the appropriate Federal agency or instrumentality, and

(3) recommend that such agency or instrumentality initiate an appropriate investigatory or disciplinary action.

In determining whether an individual has breached a duty of that individual, the Board shall take into account any standard of conduct, law, rule, regulation, contract, or order which is pertinent to the performance of the duties of that individual.

(d) REPORTS.—

(1) PROGRAM RECOMMENDATIONS.—In any case in which a Board transmits recommendations to the Secretary of State under subsection (b), the Secretary shall, not later than 90 days after the receipt of such recommendations, submit a re-

[19] 22 U.S.C. 4834.

port to the Congress on each such recommendation and the action taken with respect to that recommendation.

(2) PERSONNEL RECOMMENDATIONS.—In any case in which a Board transmits a finding of reasonable cause under subsection (c), the head of the Federal agency or instrumentality receiving the information shall review the evidence and recommendations and shall, not later than 30 days after the receipt of that finding, transmit to the Congress a report specifying—

(A) the nature of the case and a summary of the evidence transmitted by the Board; and

(B) the decision by the Federal agency or instrumentality, to take disciplinary or other appropriate action against that individual or the reasons for deciding not to take disciplinary or other action with respect to that individual.

SEC. 305.[20] RELATION TO OTHER PROCEEDINGS.

Nothing in this title shall be construed to create administrative or judicial review remedies or rights of action not otherwise available by law, nor shall any provision of this title be construed to deprive any person of any right or legal defense which would otherwise be available to that person under any law, rule, or regulation.

TITLE IV—DIPLOMATIC SECURITY PROGRAM

SEC. 401.[21] AUTHORIZATION.

(a) DIPLOMATIC SECURITY PROGRAM.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purposes, the following amounts are authorized to be appropriated for fiscal years 1986 and 1987, for the Department of State to carry out diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for the respective fiscal year for "Administration of Foreign Affairs," as follows:

(A) For "Salaries and Expenses," $308,104,000.

(B) For "Acquisition and Maintenance of Buildings Abroad," $857,806,000.

(C) For "Counterterrorism Research and Development," $15,000,000.

(2) ANTITERRORISM ASSISTANCE.—* * *.

(3)[22] * * * [Repealed—1995]

(4) ALLOCATION OF AMOUNTS AUTHORIZED TO BE APPROPRIATED.—Amounts authorized to be appropriated by this sub-

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[20] 22 U.S.C. 4835.

[21] 22 U.S.C. 4851. Sec. 302 of the Department of State Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2207; 22 U.S.C. 4851 note), provided the following:

"The Secretary of State shall report to the appropriate committees of the Congress on the obligation of funds provided for diplomatic security and related expenses every month.".

[22] Sec. 101(c) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 388), repealed para. (3), effective October 1, 1995. It had read, as amended, as follows:

"(3) CAPITAL CONSTRUCTION, FISCAL YEARS 1988 THROUGH 1990.—There is authorized to be appropriated for the Department of State for "Acquisition and Maintenance of Buildings Abroad" for each of the fiscal years 1988 through 1990, $417,962,000 to carry out diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program. Authorizations of appropriations under this paragraph shall remain available until the appropriations are made.".

section, and by the amendment made by paragraph (2), shall be allocated as provided in the table entitled "Diplomatic Security Program" relating to this section which appears in the Joint Explanatory Statement of the Committee of Conference to accompany H.R. 4151 of the 99th Congress (the Omnibus Diplomatic Security and Antiterrorism Act of 1986).

(b) NOTIFICATION TO AUTHORIZING COMMITTEES OF REQUESTS FOR APPROPRIATIONS.—In any fiscal year, whenever the Secretary of State submits to the Congress a request for appropriations to carry out the program described in subsection (a), the Secretary shall notify the Committee on Foreign Affairs [23] of the House of Representatives and the Committee on Foreign Relations of the Senate of such request, together with a justification of each item listed in such request.

(c) * * * [Repealed—1994]

(d) PROHIBITION ON REALLOCATIONS OF AUTHORIZATIONS.—Section 24(d) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2692(d)) shall not apply with respect to any amounts authorized to be appropriated under this section.

(e) SECURITY REQUIREMENTS OF OTHER FOREIGN AFFAIRS AGENCIES.—Based solely on security requirements and within the total amount of funds available for security, the Secretary of State shall ensure that an equitable level of funding is provided for the security requirements of other foreign affairs agencies.

(f) INSUFFICIENCY OF FUNDS.—In the event that sufficient funds are not available in any fiscal year for all of the diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for such fiscal year, the Secretary of State shall report to the Congress the effect that the insufficiency of funds will have with respect to the Department of State and each of the other foreign affairs agencies.

(g) ALLOCATION OF FUNDS FOR CERTAIN SECURITY PROGRAMS.—Of the amount of funds authorized to be appropriated by subsection (a)(1)(A), $34,537,000 shall be available to the Secretary of State only for the protection of classified office equipment, the expansion of information systems security, and the hiring of American systems managers and operators for computers at high threat locations.

(h) FURNITURE, FURNISHINGS, AND EQUIPMENT.

(1) USE OF EXISTING FURNITURE, FURNISHINGS, AND EQUIPMENT.—If physically possible, facilities constructed or acquired pursuant to subsection (a) shall be furnished and equipped with the furniture, furnishings, and equipment that were being used in the facilities being replaced, rather than with newly acquired furniture, furnishings, and equipment.

SEC. 402.[24] DIPLOMATIC CONSTRUCTION PROGRAM.

(a) PREFERENCE FOR UNITED STATES CONTRACTORS.—Notwithstanding section 11 of the Foreign Service Buildings Act, 1926, and

[23] 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.

[24] 22 U.S.C. 4852.

where adequate competition exists, only United States persons and qualified United States joint venture persons may—

(1) bid on a diplomatic construction or design project which has an estimated total project value exceeding $10,000,000; and

(2) bid on a diplomatic construction or design project which involves technical security, unless the project involves low-level technology, as determined by the Secretary of State.

(b) EXCEPTION.—Subsection (a) shall not apply with respect to any diplomatic construction or design project in a foreign country whose statutes prohibit the use of United States contractors on such projects. The exception contained in this subsection shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the Committee on Foreign Affairs[25] and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate what specific actions he has taken to urge such foreign country to permit the use of United States contractors on such projects, and what actions he shall take with respect to that country as authorized by title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4301 et seq.; commonly referred to as the "Foreign Missions Act").

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

(1) the term "adequate competition" means with respect to a construction or design project, the presence of two or more qualified bidders submitting responsive bids for that project;

(2) the term "United States person" means a person which—

(A) is incorporated or legally organized under the laws of the United States, including State, the District of Columbia, and local laws;

(B) has its principal place of business in the United States;

(C) has been incorporated or legally organized in the United States—

(i) for more than 5 years before the issuance date of the invitation for bids or request for proposals with respect to a construction project under subsection (a)(1); and

(ii) for more than 2 years before the issuance date of the invitation for bids or request for proposals with respect to a construction or design project which involves physical or technical security under subsection (a)(2);

(D) has performed within the United States administrative and technical, professional, or construction services similar in complexity, type of construction, and value to the project being bid;

(E) with respect to a construction project under subsection (a)(1), has achieved total business volume equal to or greater than the value of the project being bid in 3

[25] 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.

years of the 5-year period before the date specified in subparagraph (C)(i);

(F)(i) employs United State citizens in at least 80 percent of its principal management positions in the United States,

(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States, and

(iii) will employ United States citizens in at least 80 percent of the supervisory positions on the foreign buildings office project site; and

(G) has the existing technical and financial resources in the United States to perform the contract; and

(3) the term "qualified United States joint venture person" means a joint venture in which a United States person or persons owns at least 51 percent of the assets of the joint venture.

(d) AMERICAN MINORITY CONTRACTORS.—Not less than 10 percent of the amount appropriated pursuant to section 401(a) for diplomatic construction or design projects each fiscal year shall be allocated to the extent practicable for contracts with American minority contractors.

(e) AMERICAN SMALL BUSINESS CONTRACTORS.—Not less than 10 percent of the amount appropriated pursuant to section 401(a) for diplomatic construction or design projects each fiscal year shall be allocated to the extent practicable for contracts with American small business contractors.

(f) LIMITATION ON SUBCONTRACTING.—With respect to a diplomatic construction project, a prime contractor may not subcontract more than 50 percent of the total value of its contract for that project.

SEC. 403.[26] SECURITY REQUIREMENTS FOR CONTRACTORS.

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall issue regulations to—

(1) strengthen the security procedures applicable to contractors and subcontractors involved in any way with any diplomatic construction or design project; and

(2) permit a contractor or subcontractor to have access to any design or blueprint relating to such a project only in accordance with those procedures.

SEC. 404.[27] QUALIFICATIONS OF PERSONS HIRED FOR THE DIPLOMATIC CONSTRUCTION PROGRAM.

In carrying out the diplomatic construction program referred to in section 401(a), the Secretary of State shall employ as professional staff (by appointment, contract, or otherwise) only those persons with a demonstrated specialized background in the fields of construction law, or contract management. In filling such positions, the Secretary shall actively recruit women and members of minority groups.

[26] 22 U.S.C. 4853.
[27] 22 U.S.C. 4854.

SEC. 405.[28] COST OVERRUNS.

Any amount required to complete any capital project described in the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for the respective fiscal year, which is in excess of the amount made available for that project pursuant to section 401(a) (1) or (3) shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogrammings.

SEC. 406.[29] EFFICIENCY IN CONTRACTING.

(a) BONUSES AND PENALTIES.—The Director of the Office of Foreign Buildings shall provide for a contract system of bonuses and penalties for the diplomatic construction program funded pursuant to the authorizations of appropriations provided in this title. Not later than 3 months after the date of enactment of this Act, the Director shall submit a report to the Congress on the implementation of this section.

(b) SURETY BONDS AND GUARANTEES.—The Director of the Office of Foreign Buildings shall require each person awarded a contract for work under the diplomatic construction program to post a surety bond or guarantee, in such amount as the Director may determine, to assure performance under such contract.

(c) DISQUALIFICATION OF CONTRACTORS.—No person doing business with Libya may be eligible for any contract awarded pursuant to this Act.

SEC. 407.[30] ADVISORY PANEL ON OVERSEAS SECURITY.

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress on the implementation of the 91 recommendations contained in the final report of the Advisory Panel on Overseas Security. If any such recommendation has been rejected, the Secretary shall provide the reasons why that recommendation was rejected.

SEC. 408.[31] TRAINING TO IMPROVE PERIMETER SECURITY AT UNITED STATES DIPLOMATIC MISSIONS ABROAD.

(a) TRAINING.—It is the sense of Congress that the President should use the authority under chapter 8 of title II of the Foreign Assistance Act of 1961 (relating to antiterrorism assistance) to improve perimeter security of United States diplomatic missions abroad.

SEC. 409.[32] PROTECTION OF PUBLIC ENTRANCES OF UNITED STATES DIPLOMATIC MISSIONS ABROAD.

The Secretary of State shall install and maintain a walk-through metal detector or other advanced screening system at public entrances of each United States diplomatic mission abroad.

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[28] 22 U.S.C. 4855.
[29] 22 U.S.C. 4856.
[30] 22 U.S.C. 4857.
[31] 22 U.S.C. 4858. Sec. 139(20) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 398), repealed subsec. (b) of this section, which had required that the President report annually "on the progress and problems of improving perimeter security of United States diplomatic missions abroad.".
[32] 22 U.S.C. 4859.

SEC. 410. CERTAIN PROTECTIVE FUNCTIONS.

Section 208(a) of title 3, United States Code, is amended by adding at the end thereof the following: "In carrying out any duty under section 202(7), the Secretary of State is authorized to utilize any authority available to the Secretary under title II of the State Department Basic Authorities Act of 1956.".

SEC. 411.[33] REIMBURSEMENT OF THE DEPARTMENT OF THE TREASURY.

The Secretary of State shall reimburse the appropriate appropriations account of the Department of the Treasury out of funds appropriated pursuant to section 401(a)(1) for the actual costs incurred by the United States Secret Service, as agreed to by the Secretary of the Treasury, for providing protection for the spouses of foreign heads of state during fiscal years 1986 and 1987.

SEC. 412. INSPECTOR GENERAL FOR THE UNITED STATES INFORMATION AGENCY.

(a) * * *.

(b) EARMARK.—Of the funds authorized to be appropriated to the United States Information Agency for the fiscal year 1987, not less than $3,000,000 shall be available only for the operation of the office of the Inspector General established by the amendment made by subsection (a).

(c) POSITION AT LEVEL IV OF THE EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Inspector General, United States Information Agency.".

SEC. 413.[34] INSPECTOR GENERAL FOR THE DEPARTMENT OF STATE.

(a) DIRECTION TO ESTABLISH.—The Congress directs the Secretary of State to proceed immediately to establish an Office of Inspector General of the Department of State not later than October 1, 1986. Not later than January 31, 1987, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs[35] of the House of Representatives on the progress of establishing that office. Such report shall include an accounting of the obligation of funds for fiscal year 1987 for that office.

(b) DUTIES AND RESPONSIBILITIES.—The Inspector General of the Department of State (as established by the amendment made by section 150(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987) is authorized to perform all duties and responsibilities, and to exercise the authorities, stated in section 209 of the Foreign Service Act of 1980 (22 U.S.C. 3929) and in the Inspector General Act of 1978.

(c) EARMARK.—Of the amounts made available for fiscal year 1987 for salaries and expenses under the heading "Administration of Foreign Affairs", not less than $6,500,000 shall be used for the sole purpose of establishing and maintaining the Office of Inspector General of the Department of State.

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[33] 22 U.S.C. 4860.

[34] 22 U.S.C. 4861.

[35] 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) LIMITATION ON APPOINTMENT.—No career member of the Foreign Service, as defined by section 103 of the Foreign Service Act of 1980 (22 U.S.C. 3903), may be appointed Inspector General of the Department of State.

(e) POSITION AT LEVEL IV OF THE EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code (as amended by section 412), is amended by adding at the end thereof the following:

"Inspector General, Department of State.".

(6)[36] * * * [Repealed—1986]

(b) * * * [Repealed—1987]

(c) * * *

SEC. 414.[37] PROHIBITION ON THE USE OF FUNDS FOR FACILITIES IN ISRAEL, JERUSALEM, OR THE WEST BANK.

None of the funds authorized to be appropriated by this Act may be obligated or expended for site acquisition, development, or construction of any facility in Israel, Jerusalem, or the West Bank.

SEC. 415. USE OF CLEARED PERSONNEL TO ENSURE SECURE MAINTENANCE AND REPAIR OF DIPLOMATIC FACILITIES ABROAD.

(a) POLICIES AND REGULATIONS.—The Secretary of State shall develop and implement policies and regulations to provide for the use of persons who have been granted an appropriate United states security clearance to ensure that the security of areas intended for the storage of classified materials or the conduct of classified activities in a United States diplomatic mission or consular post abroad is not compromised in the performance of maintenance and repair services in those areas.

(b) STUDY AND REPORT.—The Secretary of State shall conduct a study of the feasibility and necessity of requiring that, in the case of certain United States diplomatic facilities abroad, no contractor shall be hired to perform maintenance or repair services in an area intended for the storage of classified materials or the conduct of classified activities unless such contractor has been granted an appropriate United States security clearance. Such study shall include, but is not limited to, United States facilities located in Cairo, New Delhi, Riyadh, and Tokyo. Not later than 180 days after the date of the enactment of this section, the Secretary of State shall report the results of such study to the Chairman of the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs[38] of the House of Representatives.

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[36] Paragraph (6) was repealed by sec. 405 of Public Law 99–529 (100 Stat. 3010).

[37] 22 U.S.C. 4862. Sec. 305 of the Department of State Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2208), provided the following:

"SEC. 305. Notwithstanding section 130 of the Foreign Relations Authorization Act, Fiscal Years 1988–89 and section 414 of the Diplomatic Security Act and any other provisions of law, such funds as are authorized, or that may be authorized, under the Diplomatic Security Act or any other statute, and appropriated to the Department of State under this or any other Act, may be hereafter obligated or expended for site acquisition, development, and construction of two new diplomatic facilities in Israel, Jerusalem, or the West Bank, provided that each facility (A) equally preserves the ability of the United States to locate its Ambassador or its Consul General at that site, consistent with United States policy; (B) shall not be denominated as the United States Embassy or Consulate until after the construction of both facilities has begun, and construction of one facility has been completed, or is near completion; and (C) unless security considerations require otherwise, commences operation simultaneously.".

[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.

TITLE V—STATE DEPARTMENT AUTHORITIES TO COMBAT INTERNATIONAL TERRORISM

SEC. 501.[39] REWARDS FOR INTERNATIONAL TERRORISTS.

It is the sense of the Congress that the Secretary of State should more vigorously utilize the moneys available under section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a); relating to rewards for information on international terrorism) to more effectively apprehend and prosecute international terrorists. It is further the sense of the Congress that the Secretary of State should consider widely publicizing the sizable rewards available under present law so that major international terrorist figures may be brought to justice.

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SEC. 505.[40] TERRORISM-RELATED TRAVEL ADVISORIES.

The Secretary of State shall promptly advise the Congress whenever the Department of State issues a travel advisory, or other public warning notice for United States citizens traveling abroad, because of a terrorist threat or other security concern.

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SEC. 508. NONLETHAL AIRPORT SECURITY EQUIPMENT AND COMMODITIES FOR EGYPT.

In addition to funds otherwise available for such purposes under chapter 8 of part II of the Foreign Assistance Act of 1961, assistance authorized to carry out the purposes of chapter 4 of part II of such Act for the fiscal years 1986 and 1987 (as well as undisbursed balances of previously obligated funds under such chapter) which are allocated for Egypt may be furnished, notwithstanding section 660 of such Act, for the provision of nonlethal airport security equipment and commodities, and training in the use of such equipment and commodities. The authority contained in this section shall be exercised by the Department of State's office responsible for administering chapter 8 of part II of the Foreign Assistance Act of 1961, in coordination with the Agency for International Development.

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TITLE VI—INTERNATIONAL NUCLEAR TERRORISM

SEC. 601.[41] ACTIONS TO COMBAT INTERNATIONAL NUCLEAR TERRORISM.

(a) ACTIONS TO BE TAKEN BY THE PRESIDENT.—The Congress hereby directs the President—

(1) to seek universal adherence to the Convention on the Physical Protection of Nuclear Material;

(2) to—

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[39] 22 U.S.C. 2708 note. Sec. 12 of the International Narcotics Control Act of 1989 (Public Law 101–231; 103 Stat. 1963), amended section 36(c) of the State Department Basic Authorities Act of 1956, to increase the amount available for rewards for information leading to the arrest and conviction in any country of any individual involved in the commission of an act of international terrorism from $500,000 to $2,000,000.

[40] 22 U.S.C. 2656e.

[41] 22 U.S.C. 3244.

(A) conduct a review, enlisting the participation of all relevant departments and agencies of the Government, to determine whether the recommendations on Physical Protection of Nuclear Material published by the International Atomic Energy Agency are adequate to deter theft, sabotage, and the use of nuclear facilities and materials in acts of international terrorism, and

(B) transmit the results of this review to the Director-General of the International Atomic Energy Agency;

(3) to take, in concert with United States allies and other countries, such steps as may be necessary—

(A) to keep to a minimum the amount of weapons-grade nuclear material in international transit, and

(B) to ensure that when any such material is transported internationally, it is under the most effective means for adequately protecting it from acts or attempted acts of sabotage or theft by terrorist groups or nations; and

(4) to seek agreement in the United Nations Security Council to establish—

(A) an effective regime of international sanctions against any nation or subnational group which conducts or sponsors acts of international nuclear terrorism, and

(B) measures for coordinating responses to all acts of international nuclear terrorism, including measures for the recovery of stolen nuclear material and the clean-up of nuclear releases.

(b) REPORTS TO THE CONGRESS.—The President shall report to the Congress annually, in the reports required by section 601 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3281), on the progress made during the preceding year in achieving the objectives described in this section.

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SEC. 604. REVIEW OF PHYSICAL SECURITY STANDARDS.

(a) REVIEWS.—The Secretary of Energy, the Secretary of Defense, the Secretary of State, the Director of the Arms Controls and Disarmament Agency, and the Nuclear Regulatory Commission shall each review the adequacy of the physical security standards currently applicable with respect to the shipment and storage (outside the United States) of plutonium, and uranium enriched to more than 20 percent in the isotope 233 or the isotope 235, which is subject to United States prior consent rights, with special attention to protection against risks of seizure or other terrorist acts.

(b) REPORTS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Energy, the Secretary of Defense, the Secretary of State, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission shall each submit a written report to the Committee on Foreign Affairs [42] of the House of Representatives and the Committee on Foreign Relations of the Senate setting forth the results of the review

[42] 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.

conducted pursuant to this section, together with appropriate recommendations.

SEC. 605. INTERNATIONAL REVIEW OF THE NUCLEAR TERRORISM PROBLEM.

The Congress strongly urges the President to seek a comprehensive review of the problem of nuclear terrorism by an international conference.

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TITLE VII—MULTILATERAL COOPERATION TO COMBAT INTERNATIONAL TERRORISM

SEC. 701. INTERNATIONAL ANTITERRORISM COMMITTEE.

(a) FINDINGS.—The Congress finds that—

(1) international terrorism is and remains a serious threat to the peace and security of free, democratic nations;

(2) the challenge of terrorism can only by met effectively by concerted action on the part of all responsible nations;

(3) the major developed democracies evidenced their commitment to cooperation in the fight against terrorism by the 1978 Bonn Economic Summit Declaration on Terrorism; and

(4) that commitment was renewed and strengthened at the 1986 Tokyo Economic Summit and expressed in a joint statement on terrorism.

(b) INTERNATIONAL ANTITERRORISM COMMITTEE—The Congress hereby directs the President to continue to seek the establishment of an international committee, to be known as the International Antiterrorism Committee. As a first step in establishing such committee, the President should propose to the North Atlantic Treaty Organization the establishment of a standing political committee to examine all aspects of international terrorism, review opportunities for cooperation, and make recommendations to member nations. After the establishment of this committee, the President should invite such other countries who may choose to participate. The purpose of the International Antiterrorism Committee should be to focus the attention and secure the cooperation of the governments and the public of the participating countries and of other countries on the problems and responses to international terrorism (including nuclear terrorism), by serving as a forum at both the political and law enforcement levels.

SEC. 702. INTERNATIONAL ARRANGEMENTS RELATING TO PASSPORTS AND VISAS.

The Congress strongly urges the President to seek the negotiation of international agreements (or other appropriate arrangements) to provide for the sharing of information relating to passports and visas in order to enhance cooperation among countries in combating international terrorism.

SEC. 703. PROTECTION OF AMERICANS ENDANGERED BY THE APPEARANCE OF THEIR PLACE OF BIRTH ON THEIR PASSPORTS.

(a) FINDINGS.—The Congress finds that some citizens of the United States may be specially endangered during a hijacking or other terrorist incident by the fact that their place of birth appears on their United States passport.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress on the implications of deleting the place of birth as a required item of information on passports.

SEC. 704. USE OF DIPLOMATIC PRIVILEGES AND IMMUNITIES FOR TERRORISM PURPOSES.

The Congress strongly urges the President to instruct the Permanent Representative of the United States to the United Nations to seek the adoption of a resolution in the United Nations condemning the use for terrorist purposes of diplomatic privileges and immunities under the Vienna Convention on Diplomatic Relations, especially the misuse of diplomatic pouches and diplomatic missions.

SEC. 705. REPORTS ON PROGRESS IN INCREASING MULTILATERAL COOPERATION.

Not later than February 1, 1987, the President shall submit a report to the Congress on the steps taken to carry out each of the preceding sections of this title (except for section 703) and the progress being made in achieving the objectives described in these sections.

TITLE VIII—VICTIMS OF TERRORISM COMPENSATION

SEC. 801. SHORT TITLE.

This title may be cited as the "Victims of Terrorism Compensation Act."

SEC. 802. PAYMENT TO INDIVIDUALS HELD IN CAPTIVE STATUS BETWEEN NOVEMBER 4, 1979, AND JANUARY 21, 1981.

The amount of the payment for individuals in the Civil Service referred to in section 5569(d) of title 5, United States Code (as added by section 803 of this title), or for individuals in the uniformed services referred to in section 559(c) of title 37, United States Code (as added by section 806 of this title), as the case may be, shall be $50 for each day any such individual was held in captive status during a period commencing on or after November 4, 1979, and ending on or before January 21, 1981.

SEC. 803. BENEFITS FOR CAPTIVES AND OTHER VICTIMS OF HOSTILE ACTION.

(a) IN GENERAL.—Subchapter VII of chapter 55 of title 5, United States Code, is amended by adding at the end therefore the following:

"§ 5569. Benefits for captives

"(a) For the purpose of this section—

"(1) 'captive' means any individual in a captive status commencing while such individual is—

"(A) in the Civil Service, or

"(B) a citizen, national, or resident alien of the United States rendering personal service to the United States similar to the service of an individual in the Civil Service (other than as a member of the uniformed services);

"(2) 'captive status' means a missing status which, as determined by the President, arises because of a hostile action and is a result of the individual's relationship with the Government;

"(3) 'missing status'—

"(A) in the case of an employee, has the meaning provided under section 5561(5) of this title; and

"(B) in the case of an individual other than an employee, has a similar meaning; and

"(4) 'family member,' as used with respect to a person, means—

"(A) any dependent of such person; and

"(B) any individual (other than a dependent under subparagraph (A)) who is a member of such person's family or household.

"(b)(1) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any captive to the extent that such pay and allowances are not subject to an allotment under section 5563 of this title or any other provision of law.

"(2) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with 3-month maturities issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

"(3) Amounts in the savings fund credited to a captive shall be considered as pay and allowances for purposes of section 5563 of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

"(4) Any interest accruing under this subsection on—

"(A) any amount for which an individual is indebted to the United States under section 5562(c) of this title shall be deemed to be part of the amount due under such section 5562(c); and

"(B) any amount referred to in section 5566(f) of this title shall be deemed to be part of such amount for purposes of such section 5566(f).

"(5) An allotment under this subsection may be made without regard to section 5563(c) of this title.

"(c) The head of an agency shall pay (by advancement or reimbursement) any individual who is a captive, and any family member of such individual, for medical and health care, and other expenses related to such care, to the extent that such care—

"(1) is incident to such individual being a captive; and

"(2) is not covered—

"(A) by any Government medical or health program; or

"(B) by insurance.

"(d)(1) Except as provided in paragraph (3), the President shall make a cash payment, computed under paragraph (2), to any individual who became or becomes a captive commencing on or after November 4, 1979. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such individual terminates or, in the case of any individual whose status as a captive terminated before the date of the enactment of the Victims of Terrorism Compensation Act, before the end of the one-year period beginning on such date.

"(2) Except as provided in section 802 of the Victims of Terrorism Compensation Act, the amount of the payment under this sub-

section with respect to an individual held as a captive shall be not less than one-half of the amount of the world-wide average per diem rate under section 5702 of this title which was in effect for each day that individual was so held.

"(3) The President—

"(A) may refer a payment under this subsection in the case of any individual who, during the one-year period described in paragraph (1), is charged with an offense described in subparagraph (B), until final disposition of such charge; and

"(B) may deny such payment in the case of any individual who is convicted of an offense described in subsection (b) or (c) of section 8312 of this title committed—

"(i) during the period of captivity of such individual; and

"(ii) related to the captive status of such individual.

"(4) A payment under this subsection shall be in addition to any other amount provided by law.

"(5) The provisions of subchapter VIII of this chapter (or, in the case of any person not covered by such subchapter, similar provisions prescribed by the President) shall apply with respect to any amount due an individual under paragraph (1) after such individual's death.

"(6) Any payment made under paragraph (1) which is later denied under paragraph (3)(B) is a claim of the United States Government for purposes of section 3711 of title 31.

"(e)(1) Under regulations prescribed by the President, the benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940 including the benefits provided by section 701 of such Act but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 of such Act, shall be provided in the case of any individual who is a captive.

"(2) In applying such Act under this subsection—

"(A) the term 'person in the military service' is deemed to include any such captive;

"(B) the term 'period of military service' is deemed to include the period during which the individual is in a captive status; and

"(C) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed, in the case of any captive, to be references to an individual designated for that purpose by the President.

"(f)(1)(A) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

"(B) Except as provided in subparagraph (C), payments shall be available under this paragraph for a spouse or child of an individual who is a captive for education or training which occurs—

"(i) after that individual has been in captive status for 90 days or more, and

"(ii) on or before—

"(I) the end of any semester or quarter (as appropriate) which begins before the date on which the captive status of that individual terminates, or

"(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date.

In order to respond to special circumstances, the appropriate agency head may specify a date for purposes of cessation of assistance under clause (ii) which is later than the date which would otherwise apply under such clause.

"(C) In the event a captive dies and the death is incident to that individual being a captive, payments shall be available under this paragraph for a spouse or child of such individual for education or training which occurs after the date of such individual's death.

"(D) The preceding provisions of this paragraph shall not apply with respect to any spouse or child who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

"(E) For the purpose of this paragraph, 'child' means a dependent under section 5561(3)(B) of this title.

"(2)(A) In order to respond to special circumstances, the head of an agency may pay (by advancement or reimbursement) a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

"(B) Payments shall be available under this paragraph for a captive for education or training which occurs—

"(i) after the termination of that individual's captive status, and

"(ii) on or before—

"(I) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the captive status of that individual terminates, or

"(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date, and

shall be available only to the extent that such payments are not otherwise authorized by law.

"(3) Assistance under this subsection—

"(A) shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 1724 of title 38; and

"(B) may not be provided for any individual for a period in excess of 45 months (or the equivalent thereof in other than fulltime education or training).

"(4) Regulations prescribed to carry out this subsection shall provide that the program under this subsection shall be consistent with the assistance program under chapters 35 and 36 of title 38.

"(g) Any benefit provided under subsection (c) or (d) may, under regulations prescribed by the President, be provided to a family member of an individual if—

"(1) such family member is held in captive status; and

"(2) such individual is performing service for the United States as described in subsection (a)(1)(A) when the captive status of such family member commences.

"(h) Except as provided in subsection (d), this section applies with respect to any individual in a captive status commencing after January 21, 1981.

"(i) Notwithstanding any other provision of this subchapter, any determination by the President under subsection (a)(2) or (d) shall be conclusive and shall not be subject to judicial review.

"(j) The President may prescribe regulations necessary to administer this section.

"(k) Any benefit or payment pursuant to this section shall be paid out of funds available for salaries and expenses of the relevant agency of the United States.

"§ 5570. Compensation for disability or death

"(a) For the purpose of this section—

"(1) 'employee' means—

"(A) any individual in the Civil Service; and

"(B) any individual rendering personal service to the United States similar to the service of an individual in the Civil Service (other than as a member of the uniformed services); and

"(2) 'family member', as used with respect to an employee, means—

"(A) any dependent of such employee; and

"(B) any individual (other than a dependent under subparagraph (A)) who is a member of the employee's family or household.

"(b) The President shall prescribe regulations under which an agency head may pay compensation for the disability or death of an employee or a family member of an employee if, as determined by the President, the disability or death was caused by hostile action and was a result of the individual's relationship with the Government.

"(c) Any compensation otherwise payable to an individual under this section in connection with any disability or death shall be reduced by any amounts payable to such individual under any other program funded in whole or in part by the United States (excluding any amount payable under section 5569(d) of this title) in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

"(d) A determination by the President under subsection (b) shall be conclusive and shall not be subject to judicial review.

"(e) Compensation under this section may include payment (whether by advancement or reimbursement) for any medical or health expenses relating to the death or disability involved to the extent that such expenses are not covered under subsection (c) of section 5569 of this title (other than because of paragraph (2) of such subsection).

"(f) This section applies with respect to any disability or death resulting from an injury which occurs after January 21, 1981.

"(g) Any benefit or payment pursuant to this section shall be paid out of funds available for salaries and expenses of the relevant agency of the United States.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5568 the following:

"5569. Benefits for captives.
"5570. Compensation for disability or death.".

SEC. 804. RETENTION OF LEAVE BY ALIEN EMPLOYEES FOLLOWING INJURY FROM HOSTILE ACTION ABROAD.

Section 6325 of title 5, United States Code, is amended by adding at the end thereof the following: "The preceding provisions of this section shall apply in the case of an alien employee referred to in section 6301(2)(viii) of this title with respect to any leave granted to such alien employee under section 6310 of this title or section 408 of the Foreign Service Act of 1980.".

SEC. 805. TRANSITION PROVISIONS.

(a) SAVINGS FUND.—(1) Amounts may be allotted to the savings fund under subsection (b) of section 5569 of title 5, United States Code (as added by section 803(a) of this Act) from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

(2) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

(b) MEDICAL AND HEALTH CARE; EDUCATIONAL EXPENSES.—Subsections (c) and (f) of such section 5569 (as so added) shall be carried out with respect to the period after January 21, 1981, and before the effective date of those subsections, under regulations prescribed by the President.

(c) DEFINITION.—For the purpose of this subsection, "pay and allowances" has the meaning provided under section 5561 of title 5, United States Code.

SEC. 806. BENEFITS FOR MEMBERS OF UNIFORMED SERVICES WHO ARE VICTIMS OF HOSTILE ACTION.

(a) PAYMENTS.—(1) Chapter 10 of title 37, United States Code is amended by adding at the end thereof the following new section:

"§ 559. Benefits for members held as captives

"(a) In this section:

"(1) The term 'captive status' means a missing status of a member of the uniformed services which, as determined by the President, arises because of a hostile action and is a result of membership in the uniformed services, but does not include a period of captivity of a member as a prisoner of war if Congress provides to such member, in an Act enacted after August 27, 1986,[43] monetary payment in respect of such period of captivity.

[43] Sec. 1484(d)(4) of Public Law 101–510 (104 Stat. 1717) amended title 37, sec. 559, by striking out "the date of the enactment of the Victims of Terrorism Compensation Act" and inserting in lieu thereof "August 27, 1986".

"(2) The term 'former captive' means a person who, as a member of the uniformed services, was held in a captive status.

"(b)(1) The Secretary of the Treasury shall establish a savings fund to which the Secretary concerned may allot all or any portion of the pay and allowances of any member of the uniformed services who is in a captive status to the extent that such pay and allowances are not subject to an allotment under section 553 of this title or any other provision of law.

"(2) Amounts so allotted shall bear interest at a rate which for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be computed quarterly.

"(3) Amounts in the savings fund credited to a member shall be considered as pay and allowances for purposes of section 553(c) of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

"(4) Any interest accruing under this subsection on—

"(A) any amount for which a member is indebted to the United States under section 552(c) of this title shall be deemed to be part of the amount due under such section; and

"(B) any amount referred to in section 556(f) of this title shall be deemed to be part of such amount for purposes of such section.

"(5) An allotment under this subsection may be made without regard to section 553(c) of this title.

"(c)(1) Except as provided in paragraph (3), the President shall make a cash payment to any person who is a former captive. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such person terminates.

"(2) Except as provided in section 802 of the Victims of Terrorism Compensation Act (5 U.S.C. 5569 note), the amount of such payment shall be determined by the President under the provisions of section 5569(d)(2) of title 5.

"(3)(A) The President—

"(i) may defer such payment in the case of any former captive who during such one-year period is charged with an offense described in clause (ii) of this subparagraph, until final disposition of such charge; and

"(ii) may deny such payment in the case of any former captive who is convicted of a captivity-related offense—

"(I) referred to in subsection (b) or (c) of section 8312 of title 5; or

"(II) under chapter 47 of title 10 (the Uniform Code of Military Justice) that is punishable by dishonorable discharge, dismissal, or confinement for one year or more.

"(B) For the purposes of subparagraph (A) of this paragraph, a captivity-related offense is an offense that is—

"(i) committed by a person while the person is in a captive status; and

"(ii) related to the captive status of the person.

"(4) A payment under this subsection is in addition to any other amount provided by law.

"(5) Any amount due a person under this subsection shall, after the death of such person, be deemed to be pay and allowances for the purposes of this chapter.

"(6) Any payment made under paragraph (1) that is later denied under paragraph (3)(A)(ii) is a claim of the United States Government for purposes of section 3711 of title 31.

"(d) A determination by the President under subsection (a)(1) or (c) is final and is not subject to judicial review.".

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

"559. Benefits for members held as captives.".

(3)(A)(i) Except as provided in clause (ii), section 559 of title 37, United States Code, as added by paragraph (1), shall apply to any person whose captive status begins after January 21, 1981.

(ii)(I) Subsection (c) of such section shall apply to any person whose captive status begins on or after November 4, 1979.

(II) In the case of any person whose status as a captive terminated before the date of the enactment of this Act, the President shall make a payment under paragraph (1) of such subsection before the end of the one-year period beginning on such date.

(B) Amounts may be allotted to a savings fund established under such section from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

(C) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

(b) DISABILITY AND DEATH BENEFITS.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1032. Disability and death compensation: dependents of members held as captives

"(a)[44] The President shall prescribe regulations under which the Secretary concerned may pay compensation for the disability or death of a dependent of a member of the uniformed services if the President determines that the disability or death—

"(1) was caused by hostile action; and

"(2) was a result of the relationship of the dependent to the member of the uniformed services.

"(b) Any compensation otherwise payable to a person under this section in connection with any disability or death shall be reduced by any amount payable to such person under any other program funded in whole or in part by the United States in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

"(c) A determination by the President under subsection (a) is conclusive and is not subject to judicial review.

"(d) In this section:

[44] Functions vested in the President by this section were delegated to the Secretary of Defense, to be exercised in consultation with the Secretary of Labor, by Executive Order 12598 (June 17, 1987; 52 F.R. 23421).

"(1) The term 'dependent' has the meaning given that term in section 551 of title 37.

"(2) The term 'Secretary concerned' has the meaning given that term in section 101 of that title.".

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

"1032. Disability and death compensation: dependents of members held as captives.".

(3) Section 1032 of title 10, United States Code, as added by paragraph (1), shall apply with respect to any disability or death resulting from an injury that occurs after January 21, 1981.

(c) MEDICAL BENEFITS.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1095a. Medical care: members held as captives and their dependents

"(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) any person who is a former captive, and any dependent of that person or of a person who is in a captive status, for health care and other expenses related to such care, to the extent that such care—

"(1) is incident to the captive status; and

"(2) is not covered—

"(A) by any other Government medical or health program; or

"(B) by insurance.

"(b) In the case of any person who is eligible for medical care under section 1074 or 1076 of this title, such regulations shall require that, whenever practicable, such care be provided in a facility of the uniformed services.

"(c) In this section:

"(1) 'captive status' and 'former captive' have the meanings given those terms in section 559 of title 37.

"(2) 'dependent' has the meaning given that term in section 551 of that title.".

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

"1095a. Medical care: members held as captives and their dependents.".

(3)(A) Section 1095 of title 10, United States Code, as added by paragraph (1), shall apply with respect to any person whose captive status begins after January 21, 1981.

(B) The President shall prescribe specific regulations regarding the carrying out of such section with respect to persons whose captive status begins during the period beginning on January 21, 1981, and ending on the effective date of that section.

(d) EDUCATIONAL ASSISTANCE.—(1) Part III of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 110—EDUCATIONAL ASSISTANCE FOR MEMBERS HELD AS CAPTIVES AND THEIR DEPENDENTS [45]

"Sec.
"2181. Definitions.
"2182. Educational assistance: dependents of captives.
"2183. Educational assistance: former captives.
"2184. Termination of assistance.
"2185. Programs to be consistent with programs administered by the Department of Veterans Affairs.

"§ 2181. Definitions

"In this chapter:

"(1) The terms 'captive status' and 'former captive' have the meanings given those terms in section 559 of title 37.

"(2) The term 'dependent' has the meaning given that term in section 551 of that title.

"§ 2182. Educational assistance: dependents of captives

"(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) a dependent of a person who is in a captive status for expenses incurred, while attending an educational or training institution, for—

"(1) substance;
"(2) tuition;
"(3) fees;
"(4) supplies;
"(5) books;
"(6) equipment; and
"(7) other educational expenses.

"(b) Except as provided in section 2184 of this title, payments shall be available under this section for dependent of a person who is in a captive status for education or training that occurs—

"(1) after that person is in a captive status for not less than 90 days; and

"(2) on or before—

"(A) the end of any semester or quarter (as appropriate) that begins before the date on which the captive status of that person terminates;

"(B) the earlier of the end of any course that began before such date or the end of the 16-week period following that date if the education or training institution is not operated on a semester or quarter system; or

"(C) a date specified by the Secretary concerned in order to respond to special circumstances.

"(c) If a person in a captive status or a former captive dies and the death is incident to the captivity, payments shall be available under this section for a dependent of that person for education or training that occurs after the date of the death of that person.

"(d) The provisions of this section shall not apply to any dependent who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

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[45] Functions vested in the President by this chapter were delegated to the Secretary of Defense by Executive Order 12598 (June 17, 1987; 52 F.R. 23421).

"§ 2183. Educational assistance: former captives

"(a) In order to respond to special circumstances, the Secretary concerned may pay (by advancement or reimbursement) a person who is a former captive for expenses incurred, while attending an educational or training institution, for—

"(1) substance;
"(2) tuition;
"(3) fees;
"(4) supplies;
"(5) books;
"(6) equipment; and
"(7) other educational expenses.

"(b) Except as provided in section 2184 of this title, payments shall be available under this section for a person who is a former captive for education or training that occurs—

"(1) after the termination of the status of that person as a captive; and

"(2) on or before—

"(A) the end of any semester or quarter (as appropriate) that begins before the end of the 10-year period beginning on the date on which the status of that person as a captive terminates; or

"(B) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course that began before such date or the end of the 16-week period following that date.

"(c) Payments shall be available under this section only to the extent that such payments are not otherwise authorized by law.

"§ 2184. Termination of assistance

"Assistance under this chapter—

"(1) shall be discounted for any person whose conduct or progress is unsatisfactory under standards consistent with those established under section 3524 of title 38; and

"(2) may not be provided for any person for more than 45 months (for the equivalent in other than full-time education or training).

"§ 2185. Programs to be consistent with programs administered by the Department of Veterans Affairs

"Regulations prescribed to carry out this chapter shall provide that the programs under this chapter shall be consistent with the educational assistance programs under chapters 35 and 36 of title 38.".

(2) The table of chapters at the beginning of subtitle A of such title, and the table of chapters at the beginning of part III of such subtitle, are amended by inserting after the item relating to chapter 109 the following new item:

"110. Educational Assistance for Members Held as Captives and Their Dependents ..... 2181".

(3) Chapter 110 of title 10, United States Code, as added by paragraph (1) shall apply with respect to persons whose captive status begins after January 21, 1981.

(e) ACCOUNT USED FOR PAYMENT OF COMPENSATION FOR VICTIMS OF TERRORISM.—(1) Chapter 19 of title 37, United States Code, is amended by adding at the end thereof the following new section:

"§ 1013. Payment of compensation for victims of terrorism

"Any benefit or payment pursuant to section 559 of this title, or section 1051 or 1095a or chapter 110 of title 10, shall be paid out of funds available to the Secretary concerned for military personnel.".

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

"1013. Payment of compensation for victims of terrorism.".

SEC. 807. REGULATIONS.

Any regulation required by this title or by any amendment made by this title shall take effect not later than 6 months after the date of enactment of this Act.

SEC. 808. EFFECTIVE DATE OF ENTITLEMENTS.

Provisions enacted by this title which provide new spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 shall not be effective until October 1, 1986.

TITLE IX—MARITIME SECURITY

SEC. 901. SHORT TITLE.

This title may be cited as the "International Maritime and Port Security Act".

SEC. 902.[46] INTERNATIONAL MEASURES FOR SEAPORT AND SHIPBOARD SECURITY.

The Congress encourages the President to continue to seek agreement through the International Maritime Organization on matters of international seaport and shipboard security, and commends him on his efforts to date. In developing such agreement, each member country of the International Maritime Organization should consult with appropriate private sector interests in that country. Such agreement would establish seaport and vessel security measures and could include—

(1) seaport screening of cargo and baggage similar to that done at airports;

(2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;

(3) additional security on board vessels;

(4) licensing or certification of compliance with appropriate security standards; and

(5) other appropriate measures to prevent unlawful acts against passengers and crews on board vessels.

SEC. 903. MEASURES TO PREVENT UNLAWFUL ACTS AGAINST PASSENGERS AND CREWS ON BOARD SHIPS.

(a) REPORT ON PROGRESS OF IMO.—The Secretary of Transportation and the Secretary of State, jointly, shall report to the Congress by February 28, 1987, on the progress of the International Maritime Organization in developing recommendations on Meas-

[46] 46 U.S.C. app. 1801.

ures to prevent Unlawful Acts Against Passengers and Crews On Board Ships.

(b) CONTENT OF REPORT.—The report required by subsection (a) shall include the following information—

(1) the specific areas of agreement and disagreement on the recommendations among the member nations of the International Maritime Organization;

(2) the activities of the Maritime Safety Committee, the Facilitation Committee, and the Legal Committee of the International Maritime Organization in regard to the proposed recommendations; and

(3) the security measures specified in the recommendations.

(c) SECURITY MEASURES AT UNITED STATES PORTS.—If the member nations of the International Maritime Organization have not finalized and accepted the proposed recommendations by February 28, 1987, the Secretary of Transportation shall include in the report required by this section a proposed plan of action (including proposed legislation if necessary) for the implementation of security measures at United States ports and on vessels operating from those parts based on the assessment of threat from acts of terrorism reported by the Secretary of Transportation under section 905.

SEC. 904. PANAMA CANAL SECURITY.

Not later than 6 months after the date of enactment of this Act, the President shall report to the Congress on the status of physical security at the Panama Canal with respect to the threat of terrorism.

SEC. 905.[47] THREAT OF TERRORISM TO UNITED STATES PORTS AND VESSELS.

Not later than February 28, 1987, and annually thereafter, the Secretary of Transportation shall report to the Congress on the threat from acts of terrorism to United States ports and vessels operating from those ports.

SEC. 906. PORT, HARBOR, AND COASTAL FACILITY SECURITY.

The Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.) is amended by inserting after section 6 of the following new section:

"Sec. 7. PORT, HARBOR, AND COASTAL FACILITY SECURITY.

"(a) GENERAL AUTHORITY.—The Secretary may take actions described in subsection (b) to prevent or respond to an act of terrorism against—

"(1) an individual, vessel, or public or commercial structure, that is—

"(A) subject to the jurisdiction of the United States; and

"(B) located within or adjacent to the marine environment; or

"(2) a vessel of the United States or an individual on board that vessel.

"(b) SPECIFIC AUTHORITY.—Under subsection (a), the Secretary may—

"(1) carry out or require measures, including inspections, port and harbor patrols, the establishment of security and safe-

[47] 46 U.S.C. app. 1802

ty zones, and the development of contingency plans and procedures, to prevent or respond to acts of terrorism; and

"(2) recruit members of the Regular Coast Guard and the Coast Guard Reserve and train members of the Regular Coast Guard and the Coast Guard Reserve in the techniques of preventing and responding to acts of terrorism.".

SEC. 907.[48] SECURITY STANDARDS AT FOREIGN PORTS.

(a) ASSESSMENT OF SECURITY MEASURES.—The Secretary of Transportation shall develop and implement a plan to assess the effectiveness of the security measures maintained at those foreign ports which the Secretary, in consultation with the Secretary of State, determines pose a high risk of acts of terrorism directed against passenger vessels.

(b) CONSULTATION WITH THE SECRETARY OF STATE.—In carrying out subsection (a), the Secretary of Transportation shall consult the Secretary of State with respect to the terrorist threat which exists in each country and poses a high risk of acts of terrorism directed against passenger vessels.

(c) REPORT OF ASSESSMENTS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall report to the Congress on the plan developed pursuant to subsection (a) and how the Secretary will implement the plan.

(d) DETERMINATION AND NOTIFICATION TO FOREIGN COUNTRY.—If, after implementing the plan in accordance with subsection (a), the Secretary of Transportation determines that a port does not maintain and administer effective security measures, the Secretary of State (after being informed by the Secretary of Transportation) shall notify the appropriate government authorities of the country in which the port is located of such determination, and shall recommend the steps necessary to bring the security measures in use at that port up to the standard used by the Secretary of Transportation in making such assessment.

(e) ANTITERRORISM ASSISTANCE RELATED TO MARITIME SECURITY.—The President is encouraged to provide antiterrorism assistance related to maritime security under chapter 8 of part II of the Foreign Assistance Act of 1961 to foreign countries, especially with respect to a port which the Secretary of Transportation determines under subsection (d) does not maintain and administer effective security measures.

SEC. 908.[49] TRAVEL ADVISORIES CONCERNING SECURITY AT FOREIGN PORTS.

(a) TRAVEL ADVISORY.—Upon being notified by the Secretary of Transportation that the Secretary has determined that a condition exists that threatens the safety or security of passengers, passenger vessels, or crew traveling to or from a foreign port which the Secretary of Transportation has determined pursuant to section 907(d) to be a port which does not maintain and administer effective security measures, the Secretary of State shall immediately issue a travel advisory with respect to that port. Any travel advisory issued pursuant to this subsection shall be published in the

[48] 46 U.S.C. app. 1803.
[49] 46 U.S.C. app. 1804.

Federal Register. The Secretary of State shall take the necessary steps to widely publicize that travel advisory.

(b) LIFTING OF TRAVEL ADVISORY.—The travel advisory required to be issued under subsection (a) may be lifted only if the Secretary of Transportation, in consultation with the Secretary of State, has determined that effective security measures are maintained and administered at the port with respect to which the Secretary of Transportation had made the determination described in section 907(d).

(c) NOTIFICATION TO CONGRESS.—The Secretary of State shall immediately notify the Congress of any change in the status of a travel advisory imposed pursuant to this section.

SEC. 909.[50] SUSPENSION OF PASSENGER SERVICES.

(a) PRESIDENT'S DETERMINATION.—Whenever the President determines that a foreign nation permits the use of territory under its jurisdiction as a base of operations or training for, or as a sanctuary for, or in any way arms, aids, or abets, any terrorist or terrorist group which knowingly uses the illegal seizure of passenger vessels or the threat thereof as an instrument of policy, the President may, without notice or hearing and for as long as the President determines necessary to assure the security of passenger vessels against unlawful seizure, suspend the right of any passenger vessel common carrier to operate to and from, and the right of any passenger vessel of the United States to utilize, any port in that foreign nation for passenger service.

(b) PROHIBITION.—It shall be unlawful for any passenger vessel common carrier, or any passenger vessel of the United States, to operate in violation of the suspension of rights by the President under this section.

(c) PENALTY.—(1) If a person operates a vessel in violation of this section, the Secretary of the department in which the Coast Guard is operating may deny the vessels of that person entry to United States ports.

(2) A person violating this section is liable to the United States Government for a civil penalty of not more than $50,000. Each day a vessel utilizes a prohibited port shall be a separate violation of this section.

SEC. 910.[51] SANCTIONS FOR THE SEIZURE OF VESSELS BY TERRORISTS.

The Congress encourages the President—

(1) to review the adequacy of domestic and international sanctions against terrorists who seize or attempt to seize vessels; and

(2) to strengthen where necessary, through bilateral and multilateral efforts, the effectiveness of such sanctions.

Not later than one year after the date of enactment of this Act, the President shall submit a report to the Congress which includes the review of such sanctions and the efforts to improve such sanctions.

SEC. 911.[52] DEFINITIONS.

For purposes of this title—

[50] 46 U.S.C. app. 1805.
[51] 46 U.S.C. app. 1806.
[52] 46 U.S.C. app. 1807.

(1) the term "common carrier" has the same meaning given such term in section 3(6) of the Shipping Act of 1984 (46 U.S.C. App. 1702(6)); and

(2) the terms "passenger vessel" and "vessel of the United States" have the same meaning given such terms in section 2102 of title 46, United States Code.

SEC 912.[53] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $12,500,000 for each of the fiscal years 1987 through 1991, to be available to the Secretary of Transportation to carry out this title.

SEC. 913.[54] REPORTS.

(a) CONSOLIDATION.—To the extent practicable, the reports required under sections 903, 905, and 907 shall be consolidated into a single document before being submitted to the Congress. Any classified material in those reports shall be submitted separately as an addendum to the consolidated report.

(b) SUBMISSION TO COMMITTEES.—The reports required to be submitted to the Congress under this title shall be submitted to the Committee on Foreign Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives[55] and the Committee on Foreign Relations and the Committee on Commerce, Science and Transportation of the Senate.

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TITLE XI—SECURITY AT MILITARY BASES ABROAD

SEC. 1101.[56] FINDINGS.

The Congress finds that—

(1) there is evidence that terrorists consider bases and installations of United States Armed Forces outside the United States to be targets for attack;

(2) more attention should be given to the protection of members of the Armed Forces, and members of their families, stationed outside the United States; and

(3) current programs to educate members of the Armed Forces, and members of their families, stationed outside of the United States to the threats of terrorist activity and how to protect themselves should be substantially expanded.

SEC. 1102.[56] RECOMMENDED ACTIONS BY THE SECRETARY OF DEFENSE.

It is the sense of the Congress that—

(1) the Secretary of Defense should review the security of each base and installation of the Department of Defense out-

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[53] 46 U.S.C. app. 1808.

[54] 46 U.S.C. app. 1809.

[55] 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 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 that the Committee on Merchant Marine and Fisheries of the House of Representatives shall be treated as referring to 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.

[56] 10 U.S.C. 133 note.

side the United States, including the family housing and support activities of each such base or installation, and take the steps the Secretary considers necessary to improve the security of such bases and installations; and

(2) the Secretary of Defense should institute a program of training for members of the Armed Forces, and for members of their families, stationed outside the United States concerning security and antiterrorism.

SEC. 1103.[56] REPORT TO THE CONGRESS.

Not later than June 30, 1987, the Secretary of Defense shall report to the Congress on any actions taken by the Secretary described in section 1102.

TITLE XII—CRIMINAL PUNISHMENT OF INTERNATIONAL TERRORISM

SEC. 1201. ENCOURAGEMENT FOR NEGOTIATION OF A CONVENTION.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the President should establish a process encourage the negotiation of an international convention to prevent and control all aspects of international terrorism.

(b) RELATION TO EXISTING INTERNATIONAL CONVENTIONS.—Such convention should address the prevention and control of international terrorism in a comprehensive fashion, taking into consideration matters not covered by—

(1) the Convention for the Suppression of Unlawful Seizure of Aircraft (the Hague, December 16, 1970; 22 U.S.T. 1641, TIAS 7192);

(2) the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal, September 23, 1971; 24 U.S.T. 564, TIAS 7570);

(3) the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (New York, December 14, 1973; 28 U.S.T. 1975, TIAS 8532);

(4) the Convention Against the Taking of Hostages (New York, December 17, 1979; XVIII International Legal Materials 1457);

(5) the Convention on the Physical Protection of Nuclear Materials (October 26, 1979; XVIII International Legal Materials 1419); and

(6) the Convention on Offenses and Certain Other Acts Committed on Board Aircraft (Tokyo, September 14, 1963; 20 U.S.T. 2941, TIAS 6768).

(c) WHAT THE CONVENTION SHOULD PROVIDE.—Such convention should provide—

(1) an explicit definition of conduct constituting terrorism;

(2) effective close intelligence-sharing, joint counterterrorist training, and uniform rules for asylum and extradition for perpetrators of terrorism; and

(3) effective criminal penalties for the swift punishment of perpetrators of terrorism.

(d) CONSIDERATION OF AN INTERNATIONAL TRIBUNAL.—The President should also consider including on the agenda for these nego-

tiations the possibility of eventually establishing an international tribunal for prosecuting terrorists.

SEC. 1202.[57] EXTRATERRITORIAL CRIMINAL JURISDICTION OVER TERRORIST CONDUCT. * * *

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[57] Sec. 1202 added a new chapter 113A to title 18, U.S.C. (redesignated as chapter 113B).

3. Crimes and Criminal Procedure

Title 18, United States Code—Crimes and Criminal Procedure

PART I—CRIMES

CHAPTER 1—GENERAL PROVISIONS

§ 7. Special maritime and territorial jurisdiction of the United States defined

The term "special maritime and territorial jurisdiction of the United States", as used in this title, includes:

(1) The high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

(2) Any vessel registered, licensed, or enrolled under the laws of the United States, and being on a voyage upon the waters of any of the Great Lakes, or any of the waters connecting them, or upon the Saint Lawrence River where the same constitutes the International Boundary Line.

(3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building.

(4) Any island, rock, or key containing deposits of guano, which may, at the discretion of the President, be considered as appertaining to the United States.

(5) Any aircraft belonging in whole or in part to the United States, or any citizen thereof, or to any corporation created by or under the laws of the United States, or any State, Territory, district, or possession thereof, while such aircraft is in flight over the high seas, or over any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

(6) Any vehicle used or designed for flight or navigation in space and on the registry of the United States pursuant to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies and the Convention on Registration of Objects Launched into Outer Space, while that vehicle is in

flight, which is from the moment when all external doors are closed on Earth following embarkation until the moment when one such door is opened on Earth for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the vehicle and for persons and property aboard.

(7) Any place outside the jurisdiction of any nation with respect to an offense by or against a national of the United States.

(8) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.

CHAPTER 2—AIRCRAFT AND MOTOR VEHICLES

§ 32. Destruction of aircraft or aircraft facilities

(a) Whoever willfully—

(1) sets fire to, damages, destroys, disables, or wrecks any aircraft in the special aircraft jurisdiction of the United States or any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce;

(2) places or causes to be placed a destructive device or substance in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any such aircraft, or any part or other materials used or intended to be used in connection with the operation of such aircraft, if such placing or causing to be placed or such making or causing to be made is likely to endanger the safety of any such aircraft;

(3) sets fire to, damages, destroys, or disables any air navigation facility, or interferes by force or violence with the operation of such facility, if such fire, damaging, destroying, disabling, or interfering is likely to endanger the safety of any such aircraft in flight;

(4) with the intent to damage, destroy, or disable any such aircraft, sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance or structure, ramp, landing area, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading or storage of any such aircraft or any cargo carried or intended to be carried on any such aircraft;

(5) performs an act of violence against or incapacitates any individual on any such aircraft, if such act of violence or incapacitation is likely to endanger the safety of such aircraft;

(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any such aircraft in flight; or

(7) attempts to do anything prohibited under paragraphs (1) through (6) of this subsection;

shall be fined under this title or imprisoned not more than twenty years or both.

(b) Whoever willfully—

(1) performs an act of violence against any individual on board any civil aircraft registered in a country other than the United States while such aircraft is in flight, if such act is likely to endanger the safety of that aircraft;

(2) destroys a civil aircraft registered in a country other than the United States while such aircraft is in service or causes damage to such an aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight;

(3) places or causes to be placed on a civil aircraft registered in a country other than the United States while such aircraft is in service, a device or substance which is likely to destroy that aircraft, or to cause damage to that aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight; or

(4) attempts to commit an offense described in paragraphs (1) through (3) of this subsection;

shall, if the offender is later found in the United States, be fined under this title or imprisoned not more than twenty years, or both.

(c) Whoever willfully imparts or conveys any threat to do an act which would violate any of paragraphs (1) through (5) of subsection (a) or any of paragraphs (1) through (3) of subsection (b) of this section, with an apparent determination and will to carry the threat into execution shall be fined under this title or imprisoned not more than five years, or both.

§ 37. Violence at international airports

(a) OFFENSE.—A person who unlawfully and intentionally, using any device, substance, or weapon—

(1) performs an act of violence against a person at an airport serving international civil aviation that causes or is likely to cause serious bodily injury (as defined in section 1365 of this title) or death; or

(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport, if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title, imprisoned not more than 20 years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

(b) JURISDICTION.—There is jurisdiction over the prohibited activity in subsection (a) if—

(1) the prohibited activity takes place in the United States; or

(2) the prohibited activity takes place outside the United States and the offender is later found in the United States.

(c) It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term "labor dis-

pute" has the meaning set forth in section 2(c)[1] of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

CHAPTER 7—ASSAULT

§ 112.[2] Protection of foreign officials, official guests, and internationally protected persons

(a) Whoever assaults, strikes, wounds, imprisons, or offers violence to a foreign official, official guest, or internationally protected person or makes any other violent attack upon the person or liberty of such person, or, if likely to endanger his person or liberty, makes a violent attack upon his official premises, private accommodation, or means of transport or attempts to commit any of the foregoing shall be fined under this title or imprisoned not more than three years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon, or inflicts bodily injury shall be fined under this title or imprisoned not more than ten years, or both.

(b) Whoever willfully—

(1) intimidates, coerces, threatens, or harasses a foreign official or an official guest or obstructs a foreign official in the performance of his duties;

(2) attempts to intimidate, coerce, threaten, or harass a foreign official or an official guest or obstruct a foreign official in the performance of his duties; or

(3) within the United States but outside the District of Columbia and within one hundred feet of any building or premises in whole or in part owned, used, or occupied for official business or for diplomatic, consular, or residential purposes by—

(A) a foreign government, including such use as a mission to an international organization;

(B) an international organization;

(C) a foreign official; or

(D) an official guest;

congregates with two or more other persons with intent to violate any other provision of this section;

shall be fined under this title or imprisoned not more than six months, or both.

(c) For the purpose of this section "foreign government", "foreign official", "internationally protected person", "international organization", "national of the United States", and "official guest" shall have the same meanings as those provided in section 1116(b) of this title.

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[1] So in original. Probably should be section "13(c)".

[2] Sec. 112 was enacted by the Act for the Protection of Foreign Officials and Official Guests of the United States (Public Law 92–539; 86 Stat. 1070), and was amended and restated by sec. 5 of Public Law 94–467. Sec. 2 of Public Law 92–539 provided the following statement of findings and delcaration of policy:

"SEC. 2. The Congress recognizes that from the beginning of our history as a nation, the police power to investigate, prosecute, and punish common crimes such as murder, kidnapping, and assault has resided in the several States, and that such power should remain with the States.

"The Congress finds, however, that harassment, intimidation, obstruction, coercion, and acts of violence committed against foreign officials or their family members in the United States or against official guests of the United States adversely affect the foreign relations of the United States.

"Accordingly, this legislation is intended to afford the United States jurisdiction concurrent with that of the several States to proceed against those who by such acts interfere with its conduct of foreign affairs.".

(d) Nothing contained in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the first amendment to the Constitution of the United States.

(e) If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 46501(2) of title 49.

(f) In the course of enforcement of subsection (a) and any other sections prohibiting a conspiracy or attempt to violate subsection (a), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary, notwithstanding.

CHAPTER 10—BIOLOGICAL WEAPONS [3]

§ 175. Prohibitions with respect to biological weapons

(a) IN GENERAL.—Whoever knowingly develops, produces, stockpiles, transfers, acquires, retains, or possesses any biological agent, toxin, or delivery system for use as a weapon, or knowingly assists a foreign state or any organization to do so, or attempts, threatens, or conspires to do the same, shall be fined under this title or imprisoned for life or any term of years, or both. There is extraterritorial Federal jurisdiction over an offense under this section committed by or against a national of the United States.

(b) DEFINITION.—For purposes of this section, the term 'for use as a weapon' does not include the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system for prophylactic, protective, or other peaceful purposes.

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[3] The Biological Weapons Anti-Terrorism Act of 1989 enacted a new chapter 10 to 18 U.S.C. relating to biological weapons to implement the Biological Weapons Convention. The free-standing sections of the Act provided as follows:

"AN ACT To implement the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction, by prohibiting certain conduct relating to biological weapons, 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. [18 U.S.C. 175 note] SHORT TITLE.

"This Act may be cited as the 'Biological Weapons Anti-Terrorism Act of 1989'.

"SEC. 2. [18 U.S.C. 175 note] PURPOSE AND INTENT.

"(a) PURPOSE.—The purpose of this Act is to—

"(1) implement the Biological Weapons Convention, an international agreement unanimously ratified by the United States Senate in 1974 and signed by more than 100 other nations, including the Soviet Union; and

"(2) protect the United States against the threat of biological terrorism.

"(b) INTENT OF ACT.—Nothing in this Act is intended to restrain or restrict peaceful scientific research or development.".

§ 175a.[4] Requests for military assistance to enforce prohibition in certain emergencies

The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 175 of this title in an emergency situation involving a biological weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.".

§ 176. Seizure, forfeiture, and destruction

(a) IN GENERAL.—(1) Except as provided in paragraph (2), the Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any biological agent, toxin, or delivery system that—

(A) exists by reason of conduct prohibited under section 175 of this title; or

(B) is of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes.

(2) In exigent circumstances, seizure and destruction of any biological agent, toxin, or delivery system described in subparagraphs (A) and (B) of paragraph (1) may be made upon probable cause without the necessity for a warrant.

(b) PROCEDURE.—Property seized pursuant to subsection (a) shall be forfeited to the United States after notice to potential claimants and an opportunity for a hearing. At such hearing, the Government shall bear the burden of persuasion by a preponderance of the evidence. Except as inconsistent herewith, the same procedures and provisions of law relating to a forfeiture under the customs laws shall extend to a seizure or forfeiture under this section. The Attorney General may provide for the destruction or other appropriate disposition of any biological agent, toxin, or delivery system seized and forfeited pursuant to this section.

(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense against a forfeiture under subsection (a)(1)(B) of this section that—

(1) such biological agent, toxin, or delivery system is for a prophylactic, protective, or other peaceful purpose; and

(2) such biological agent, toxin, or delivery system, is of a type and quantity reasonable for that purpose.

§ 177. Injunctions

(a) IN GENERAL.—The United States may obtain in a civil action an injunction against—

(1) the conduct prohibited under section 175 of this title;

(2) the preparation, solicitation, attempt, threat, or conspiracy to engage in conduct prohibited under section 175 of this title; or

(3) the development, production, stockpiling, transferring, acquisition, retention, or possession, or the attempted development, production, stockpiling, transferring, acquisition, reten-

[4] Sec. 1416(c)(1)A) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2723) enacted a new sec. 175a.

tion, or possession of any biological agent, toxin, or delivery system of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes.

(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense against an injunction under subsection (a)(3) of this section that—

(1) the conduct sought to be enjoined is for a prophylactic, protective, or other peaceful purpose; and

(2) such biological agent, toxin, or delivery system is of a type and quantity reasonable for that purpose.

§ 178. Definitions

As used in this chapter—

(1) the term "biological agent" means any micro-organism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, capable of causing—

(A) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(B) deterioration of food, water, equipment, supplies, or material of any kind; or

(C) deleterious alteration of the environment;

(2) the term "toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including—

(A) any poisonous substance or biological product that may be engineered as a result of biotechnology produced by a living organism; or

(B) any poisonous isomer or biological product, homolog, or derivative of such a substance;

(3) the term 'delivery system' means—

(A) any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector; or

(B) any vector;

(4) the term "vector" means a living organism, or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology, capable of carrying a biological agent or toxin to a host; and

(5) the term "national of the United States" has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

CHAPTER 39—EXPLOSIVES AND COMBUSTIBLES

§ 831. Prohibited transactions involving nuclear materials

(a) Whoever, if one of the circumstances described in subsection (c) of this section occurs—

(1) without lawful authority, intentionally receives, possesses, uses, transfers, alters, disposes of, or disperses any nuclear material and—

(A) thereby knowingly causes the death of or serious bodily injury to any person or substantial damage to property; or

(B) knows that circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property;

(2) with intent to deprive another of nuclear material, knowingly—

(A) takes and carries away nuclear material of another without authority;

(B) makes an unauthorized use, disposition, or transfer, of nuclear material belonging to another; or

(C) uses fraud and thereby obtains nuclear material belonging to another;

(3) knowingly—

(A) uses force; or

(B) threatens or places another in fear that any person other than the actor will imminently be subject to bodily injury;

and thereby takes nuclear material belonging to another from the person or presence of any other;

(4) intentionally intimidates any person and thereby obtains nuclear material belonging to another;

(5) with intent to compel any person, international organization, or governmental entity to do or refrain from doing any act, knowingly threatens to engage in conduct described in paragraph (2)(A) or (3) of this subsection;

(6) knowingly threatens to use nuclear material to cause death or serious bodily injury to any person or substantial damage to property under circumstances in which the threat may reasonably be understood as an expression of serious purposes;

(7) attempts to commit an offense under paragraph (1), (2), (3), or (4) of this subsection; or

(8) is a party to a conspiracy of two or more persons to commit an offense under paragraph (1), (2), (3), or (4) of this subsection, if any of the parties intentionally engages in any conduct in furtherance of such offense;

shall be punished as provided in subsection (b) of this section.

(b) The punishment for an offense under—

(1) paragraphs (1) through (7) of subsection (a) of this section is—

(A) a fine under this title; and

(B) imprisonment—

(i) for any term of years or for life (I) if, while committing the offense, the offender knowingly causes the death of any person; or (II) if, while committing an offense under paragraph (1) or (3) of subsection (a) of this section, the offender, under circumstances manifesting extreme indifference to the life of an individual, knowingly engages in any conduct and thereby recklessly causes the death of or serious bodily injury to any person; and

(ii) for not more than 20 years in any other case; and

(2) paragraph (8) of subsection (a) of this section is—

(A) a fine under this title; and

(B) imprisonment—

(i) for not more than 20 years if the offense which is the object of the conspiracy is punishable under paragraph (1)(B)(i); and

(ii) for not more than 10 years in any other case.

(c) The circumstances referred to in subsection (a) of this section are that—

(1) the offense is committed in the United States or the special maritime and territorial jurisdiction of the United States, or the special aircraft jurisdiction of the United States (as defined in section 46501 of title 49);

(2) the defendant is a national of the United States, as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101);

(3) at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and after the conduct required for the offense occurs the defendant is found in the United States, even if the conduct required for the offense occurs outside the United States; or

(4) the conduct required for the offense occurs with respect to the carriage of a consignment of nuclear material for peaceful purposes by any means of transportation intended to go beyond the territory of the state where the shipment originates beginning with the departure from a facility of the shipper in that state and ending with the arrival at a facility of the receiver within the state of ultimate destination and either of such states is the United States.

(d) The Attorney General may request assistance from the Secretary of Defense under chapter 18 of title 10 in the enforcement of this section and the Secretary of Defense may provide such assistance in accordance with chapter 18 of title 10, except that the Secretary of Defense may provide such assistance through any Department of Defense personnel.

(e)(1) The Attorney General may also request assistance from the Secretary of Defense under this subsection in the enforcement of this section. Notwithstanding section 1385 of this title, the Secretary of Defense may, in accordance with other applicable law, provide such assistance to the Attorney General if—

(A) an emergency situation exists (as jointly determined by the Attorney General and the Secretary of Defense in their discretion); and

(B) the provision of such assistance will not adversely affect the military preparedness of the United States (as determined by the Secretary of Defense in such Secretary's discretion).

(2) As used in this subsection, the term "emergency situation" means a circumstance—

(A) that poses a serious threat to the interests of the United States; and

(B) in which—

(i) enforcement of the law would be seriously impaired if the assistance were not provided; and

(ii) civilian law enforcement personnel are not capable of enforcing the law.

(3) Assistance under this section may include—

(A) use of personnel of the Department of Defense to arrest persons and conduct searches and seizures with respect to violations of this section; and

(B) such other activity as is incidental to the enforcement of this section, or to the protection of persons or property from conduct that violates this section.

(4) The Secretary of Defense may require reimbursement as a condition of assistance under this section.

(5) The Attorney General may delegate the Attorney General's function under this subsection only to a Deputy, Associate, or Assistant Attorney General.

(f) As used in this section—

(1) the term "nuclear material" means material containing any—

(A) plutonium with an isotopic concentration not in excess of 80 percent plutonium 238;

(B) uranium not in the form of ore or ore residue that contains the mixture of isotopes as occurring in nature;

(C) uranium that contains the isotope 233 or 235 or both in such amount that the abundance ratio of the sum of those isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature; or

(D) uranium 233;

(2) the term "international organization" means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288) or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs;

(3) the term "serious bodily injury" means bodily injury which involves—

(A) a substantial risk of death;

(B) extreme physical pain;

(C) protracted and obvious disfigurement; or

(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

(4) the term "bodily injury" means—

(A) a cut, abrasion, bruise, burn, or disfigurement;

(B) physical pain;

(C) illness;

(D) impairment of a function of a bodily member, organ, or mental faculty; or

(E) any other injury to the body, no matter how temporary.

CHAPTER 41—EXTORTION AND THREATS

§ 878.[5] Threats and extortion against foreign officials, official guests, or internationally protected persons

(a) Whoever knowingly and willfully threatens to violate section 112, 1116, or 1201 shall be fined under this title or imprisoned not more than five years, or both, except that imprisonment for a threatened assault shall not exceed three years.

(b) Whoever in connection with any violation of subsection (a) or actual violation of section 112, 1116, or 1201 makes any extortionate demand shall be fined under this title or imprisoned not more than twenty years, or both.

(c) For the purpose of this section "foreign official", "internationally protected person", "national of the United States", and "official guest" shall have the same meanings as those provided in section 1116(a) of this title.

(d) If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of section 5 and 7 of this title and section 46501(2) of title 49.

CHAPTER 44—FIREARMS

§ 922. Unlawful acts

* * * * * * *

(p)(1) It shall be unlawful for any person to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm—

(A) that, after removal of grips, stocks, and magazines, is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or

(B) any major component of which, when subjected to inspection by the types of x-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(2) For purposes of this subsection—

(A) the term "firearm" does not include the frame or receiver of any such weapon;

(B) the term "major component" means, with respect to a firearm, the barrel, the slide or cylinder, or the frame or receiver of the firearm; and

(C) the term "Security Exemplar" means an object, to be fabricated at the direction of the Secretary, that is—

(i) constructed of, during the 12-month period beginning on the date of the enactment of this subsection, 3.7 ounces

[5] Added by sec. 8 of Public Law 94–467 (90 Stat. 1997).

of material type 17-4 PH stainless steel in a shape resembling a handgun; and

(ii) suitable for testing and calibrating metal detectors: *Provided, however,* That at the close of such 12-month period, and at appropriate times thereafter the Secretary shall promulgate regulations to permit the manufacture, importation, sale, shipment, delivery, possession, transfer, or receipt of firearms previously prohibited under this subparagraph that are as detectable as a "Security Exemplar" which contains 3.7 ounces of material type 17-4 PH stainless steel, in a shape resembling a handgun, or such lesser amount as is detectable in view of advances in state-of-the-art developments in weapons detection technology.

(3) Under such rules and regulations as the Secretary shall prescribe, this subsection shall not apply to the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm by a licensed manufacturer or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing such firearm to determine whether paragraph (1) applies to such firearm. The Secretary shall ensure that rules and regulations adopted pursuant to this paragraph do not impair the manufacture of prototype firearms or the development of new technology.

(4) The Secretary shall permit the conditional importation of a firearm by a licensed importer or licensed manufacturer, for examination and testing to determine whether or not the unconditional importation of such firearm would violate this subsection.

(5) This subsection shall not apply to any firearm which—

(A) has been certified by the Secretary of Defense or the Director of Central Intelligence, after consultation with the Secretary and the Administrator of the Federal Aviation Administration, as necessary for military or intelligence applications; and

(B) is manufactured for and sold exclusively to military or intelligence agencies of the United States.

(6) This subsection shall not apply with respect to any firearm manufactured in, imported into, or possessed in the United States before the date of the enactment of the Undetectable Firearms Act of 1988.

* * * * * * *

§ 924. Penalties

(a)(1) Except as otherwise provided in this subsection, subsection (b), (c), or (f) of this section, or in section 929, whoever—

(A) knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter;

(B) knowingly violates subsection (a)(4), (f), (k), (r), (v), or (w) of section 922;

(C) knowingly imports or brings into the United States or any possession thereof any firearm or ammunition in violation of section 922(l); or

(D) willfully violates any other provision of this chapter,

shall be fined under this title, imprisoned not more than five years, or both.

(2) Whoever knowingly violates subsection (a)(6), (d), (g), (h), (i), (j), or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years, or both.

(3) Any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly—

(A) makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or

(B) violates subsection (m) of section 922,

shall be fined under this title, imprisoned not more than one year, or both.

(4) Whoever violates section 922(q) shall be fined under this title, imprisoned for not more than 5 years, or both. Notwithstanding any other provision of law, the term of imprisonment imposed under this paragraph shall not run concurrently with any other term of imprisonment imposed under any other provision of law. Except for the authorization of a term of imprisonment of not more than 5 years made in this paragraph, for the purpose of any other law a violation of section 922(q) shall be deemed to be a misdemeanor.

(5)[6] Whoever knowingly violates subsection (s) or (t) of section 922 shall be fined under this title, imprisoned for not more than 1 year, or both.

(5)(A)(i)[6] A juvenile who violates section 922(x) shall be fined under this title, imprisoned not more than 1 year, or both, except that a juvenile described in clause (ii) shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation.

(ii) A juvenile is described in this clause if—

(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(x)(2); and

(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(x) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

(B) A person other than a juvenile who knowingly violates section 922(x)—

(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, shall

[6] So in original. Two pars. (5) have been enacted.

be fined under this title, imprisoned not more than 10 years, or both.

(b) Whoever, with intent to commit therewith an offense punishable by imprisonment for a term exceeding one year, or with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce shall be fined under this title, or imprisoned not more than ten years, or both.

(c)(1)(A)[7] Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

(i) be sentenced to a term of imprisonment of not less than 5 years;

(ii) if the firearm is brandished, be sentenced to a term of imprisonment of not less than 7 years; and

(iii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 10 years.

(B) If the firearm possessed by a person convicted of a violation of this subsection—

(i) is a short-barreled rifle, short-barreled shotgun, or semi-automatic assault weapon, the person shall be sentenced to a term of imprisonment of not less than 10 years; or

(ii) is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, the person shall be sentenced to a term of imprisonment of not less than 30 years.

(C) In the case of a second or subsequent conviction under this subsection, the person shall—

(i) be sentenced to a term of imprisonment of not less than 25 years; and

(ii) if the firearm involved is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, be sentenced to imprisonment for life.

(D) Notwithstanding any other provision of law—

(i) a court shall not place on probation any person convicted of a violation of this subsection; and

(ii) no term of imprisonment imposed on a person under this subsection shall run concurrently with any other term of imprisonment imposed on the person, including any term of imprisonment imposed for the crime of violence or drug trafficking crime during which the firearm was used, carried, or possessed.

(2) For purposes of this subsection, the term "drug trafficking crime" means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Im-

[7] Sec. 924(c) was ammended by Public Law 105–386 (112 Stat. 3469).

port and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(3) For purposes of this subsection the term "crime of violence" means an offense that is a felony and—

(A) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(B) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(4)[8] For purposes of this subsection, the term 'brandish' means, with respect to a firearm, to display all or part of the firearm, or otherwise make the presence of the firearm known to another person, in order to intimidate that person, regardless of whether the firearm is directly visible to that person.

(d)(1) Any firearm or ammunition involved in or used in any knowing violation of subsection (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(l), or knowing violation of section 924, or willful violation of any other provision of this chapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, or any firearm or ammunition intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter: Provided, That upon acquittal of the owner or possessor, or dismissal of the charges against him other than upon motion of the Government prior to trial, or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished firearms or ammunition shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or his delegate in violation of law. Any action or proceeding for the forfeiture of firearms or ammunition shall be commenced within one hundred and twenty days of such seizure.

(2)(A) In any action or proceeding for the return of firearms or ammunition seized under the provisions of this chapter, the court shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

(B) In any other action or proceeding under the provisions of this chapter, the court, when it finds that such action was without foundation, or was initiated vexatiously, frivolously, or in bad faith, shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

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[8] Sec. 924(c)(4) was added by Public Law 105–386 (112 Stat. 3469).

(C) Only those firearms or quantities of ammunition particularly named and individually identified as involved in or used in any violation of the provisions of this chapter or any rule or regulation issued thereunder, or any other criminal law of the United States or as intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure, forfeiture, and disposition.

(D) The United States shall be liable for attorneys' fees under this paragraph only to the extent provided in advance by appropriation Acts.

(3) The offenses referred to in paragraphs (1) and (2)(C) of this subsection are—

(A) any crime of violence, as that term is defined in section 924(c)(3) of this title;

(B) any offense punishable under 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.);

(C) any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of this title, where the firearm or ammunition intended to be used in any such offense is involved in a pattern of activities which includes a violation of any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of this title;

(D) any offense described in section 922(d) of this title where the firearm or ammunition is intended to be used in such offense by the transferor of such firearm or ammunition;

(E) any offense described in section 922(i), 922(j), 922(l), 922(n), or 924(b) of this title; and

(F) any offense which may be prosecuted in a court of the United States which involves the exportation of firearms or ammunition.

(e)(1) In the case of a person who violates section 922(g) of this title and has three previous convictions by any court referred to in section 922(g)(1) of this title for a violent felony or a serious drug offense, or both, committed on occasions different from one another, such person shall be fined not more than $25,000 and imprisoned not less than fifteen years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under section 922(g).

(2) As used in this subsection—

(A) the term "serious drug offense" means—

(i) an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.) for which a maximum term of imprisonment of ten years or more is prescribed by law; or

(ii) an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act

(21 U.S.C. 802)), for which a maximum term of imprisonment of ten years or more is prescribed by law;

(B) the term "violent felony" means any crime punishable by imprisonment for a term exceeding one year, or any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable by imprisonment for such term if committed by an adult, that—

(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

(ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another; and

(C) the term "conviction" includes a finding that a person has committed an act of juvenile delinquency involving a violent felony.

(f) In the case of a person who knowingly violates section 922(p), such person shall be fined under this title, or imprisoned not more than 5 years, or both.

(g) Whoever, with the intent to engage in conduct which—

(1) constitutes an offense listed in section 1961(1),

(2) is punishable under the Controlled Substances Act (21 U.S.C. 802 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.),

(3) violates any State law relating to any controlled substance (as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))), or

(4) constitutes a crime of violence (as defined in subsection (c)(3)),

travels from any State or foreign country into any other State and acquires, transfers, or attempts to acquire or transfer, a firearm in such other State in furtherance of such purpose, shall be imprisoned not more than 10 years, fined in accordance with this title, or both.

(h) Whoever knowingly transfers a firearm, knowing that such firearm will be used to commit a crime of violence (as defined in subsection (c)(3)) or drug trafficking crime (as defined in subsection (c)(2)) shall be imprisoned not more than 10 years, fined in accordance with this title, or both.

(i)(1)[9] A person who knowingly violates section 922(u) shall be fined under this title, imprisoned not more than 10 years, or both.

(2) Nothing contained in this subsection shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this subsection operate to the exclusion of State laws on the same subject matter, nor shall any provision of this subsection be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this subsection.

(i)[9] A person who, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

[9] So in original. Two subsecs. (i) have been enacted.

(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in that section.

(j) A person who, with intent to engage in or to promote conduct that—

(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

(3) constitutes a crime of violence (as defined in subsection (c)(3),[10]

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned not more than 10 years, fined under this title, or both.

(k) A person who steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years, fined under this title, or both.

(l) A person who steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined under this title, imprisoned not more than 10 years, or both.

(m) A person who, with the intent to engage in conduct that constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.

(n) A person who conspires to commit an offense under subsection (c) shall be imprisoned for not more than 20 years, fined under this title, or both; and if the firearm is a machinegun or destructive device, or is equipped with a firearm silencer or muffler, shall be imprisoned for any term of years or life.

CHAPTER 45—FOREIGN RELATIONS

§ 970.[11] Protection of property occupied by foreign governments

(a) Whoever willfully injures, damages, or destroys, or attempts to injure, damage, or destroy, any property, real or personal, located within the United States and belonging to or utilized or occupied by any foreign government or international organization, by a foreign official or official guest, shall be fined under this title, or imprisoned not more than five years, or both.

(b) Whoever, willfully with intent to intimidate, coerce, threaten, or harass—

(1) forcibly thrusts any part of himself or any object within or upon that portion of any building or premises located within

[10] So in original. Probably should be subsection "(c)(3)),".

[11] Sec. 970 was enacted by the Act for the Protection of Foreign Officials and Official Guests of the United States (Public Law 92–539; 86 Stat. 1070).

the United States, which portion is used or occupied for official business or for diplomatic, consular, or residential purposes by—

(A) a foreign government, including such use as a mission to an international organization;

(B) an international organization;

(C) a foreign official; or

(D) an official guest; or

(2) refuses to depart from such portion of such building or premises after a request—

(A) by an employee of a foreign government or of an international organization, if such employee is authorized to make such request by the senior official of the unit of such government or organization which occupies such portion of such building or premises;

(B) by a foreign official or any member of the foreign official's staff who is authorized by the foreign official to make such request;

(C) by an official guest or any member of the official guest's staff who is authorized by the official guest to make such request; or

(D) by any person present having law enforcement powers;

shall be fined under this title or imprisoned not more than six months, or both.

(c) For the purpose of this section "foreign government", "foreign official", "international organization", and "official guest" shall have the same meanings as those provided in section 116(b) of this title.

CHAPTER 51—HOMICIDE

§ 1116.[12] Murder or manslaughter of foreign officials, official guests, or internationally protected persons

(a) Whoever kills or attempts to kill a foreign official, official guest, or internationally protected person shall be punished as provided under sections 1111, 1112, and 1113 of this title, except that.[13]

(b) For the purposes of this section:

(1) "Family" includes (a) a spouse, parent, brother or sister, child, or person to whom the foreign official of internationally protected person stands in loco parentis, or (b) any other person living in his household and related to the foreign official or internationally protected person by blood or marriage.

(2) "Foreign government" means the government of a foreign country, irrespective of recognition by the United States.

(3) "Foreign official" means—

(A) a Chief of State or the political equivalent, President, Vice President, Prime Minister, Ambassador, Foreign Minister, or other officer of Cabinet rank or above of a foreign government or the chief executive officer of an inter-

[12] Sec. 1116 was enacted by the Act for the Protection of Foreign Officials and Official Guests of the United States (Public Law 92–539; 86 Stat. 1070), and amended and restated by sec. 2 of Public Law 94–467.

[13] So in original. The phrase "except that" preceding the period probably should not appear.

national organization, or any person who has previously served in such capacity, and any member of his family, while in the United States; and

(B) any person of a foreign nationality who is duly notified to the United States as an officer or employee of a foreign government or international organization, and who is in the United States on official business, and any member of his family whose presence in the United States is in connection with the presence of such officer or employee.

(4) "Internationally protected person" means—

(A) a Chief of State or the political equivalent, head of government, or Foreign Minister whenever such person is in a country other than his own and any member of his family accompanying him; or

(B) any other representative, officer, employee, or agent of the United States Government, a foreign government, or international organization who at the time and place concerned is entitled pursuant to international law to special protection against attack upon his person, freedom, or dignity, and any member of his family then forming part of his household.

(5) "International organization" means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288) or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs.

(6) "Official guest" means a citizen or national of a foreign country present in the United States as an official guest of the Government of the United States pursuant to designation as such by the Secretary of State.

(7)[14] "National of the United States" has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(c) If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 46501(2) of title 49.

(d) In the course of enforcement of this section and any other sections prohibiting a conspiracy or attempt to violate this section, the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

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[14] Sec. 721(c)(1) of Public Law 104–132 (110 Stat. 1298) added para. (7). Sec. 101(a)(22) of the Immigration and Nationality Act defines the term as "(A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.".

§ 1117.[15] Conspiracy to murder

If two or more persons conspire to violate section 1111, 1114, 1116, or 1119 of this title, and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life.

CHAPTER 55—KIDNAPPING

§ 1201.[16] Kidnapping

(a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof, when—

(1) the person is willfully transported in interstate or foreign commerce regardless of whether the person was alive when transported across a State boundary if the person was alive when the transportation began;

(2) any such act against the persons is done within the special maritime and territorial jurisdiction of the United States;

(3) any such act against the person is done within the special aircraft jurisdiction of the United States as defined in section 46501 of title 49;

(4) the person is a foreign official, an internationally protected person, or an official guest as those terms are defined in section 1116(b) of this title; or

(5) the person is among those officers and employees described in section 1114 of this title and any such act against the person is done while the person is engaged in, or on account of, the performance of official duties;

shall be punished by imprisonment for any term of years or for life and, if the death of any person results, shall be punished by death or life imprisonment.

(b) With respect to subsection (a)(1), above, the failure to release the victim within twenty-four hours after he shall have been unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted, or carried away shall create a rebuttable presumption that such person has been transported in interstate or foreign commerce. Notwithstanding the preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the 24-hour period has ended.[17]

(c) If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life.

(d) Whoever attempts to violate subsection (a) shall be punished by imprisonment for not more than twenty years.

(e) If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United

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[15] Sec. 1117 was enacted by the Act for the Protection of Foreign Officials and Official Guests of the United States (Public Law 92–539; 86 Stat. 1070).

[16] Sec. 1201 was enacted by the Act for the Protection of Foreign Officials and Official Guests of the United States (Public Law 92–539; 86 Stat. 1070).

[17] Last sentence added by sec. 702(c) of Public Law 105–314 (112 Stat. 2987).

States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of section 5 and 7 of this title and section 46501(2) of title 49. For purposes of this subsection, the term "national of the United States" has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(f) In the course of enforcement of subsection (a)(4) and any other sections prohibiting a conspiracy or attempt to violate subsection (a)(4), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.".

(g) SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.—

(1) TO WHOM APPLICABLE.—If—

(A) the victim of an offense under this section has not attained the age of eighteen years; and

(B) the offender—

(i) has attained such age; and

(ii) is not—

(I) a parent;

(II) a grandparent;

(III) a brother;

(IV) a sister;

(V) an aunt;

(VI) an uncle; or

(VII) an individual having legal custody of the victim;

the sentence under this section for such offense shall be subject to paragraph (2) of this subsection.

(2) GUIDELINES.—The United States Sentencing Commission is directed to amend the existing guidelines for the offense of "kidnapping, abduction, or unlawful restraint," by including the following additional specific offense characteristics: If the victim was intentionally maltreated (i.e., denied either food or medical care) to a life-threatening degree, increase by 4 levels; if the victim was sexually exploited (i.e., abused, used involuntarily for pornographic purposes) increase by 3 levels; if the victim was placed in the care or custody of another person who does not have a legal right to such care or custody of the child either in exchange for money or other consideration, increase by 3 levels; if the defendant allowed the child to be subjected to any of the conduct specified in this section by another person, then increase by 2 levels.

(h) As used in this section, the term "parent" does not include a person whose parental rights with respect to the victim of an offense under this section have been terminated by a final court order.

CHAPTER 75—PASSPORTS AND VISAS

§ 1541. Issuance Without Authority.

Whoever, acting or claiming to act in any office or capacity under the United States, or a State, without lawful authority grants, issues, or verifies any passport or other instrument in the nature of a passport to or for any person whomsoever; or

Whoever, being a consular officer authorized to grant, issue, or verify passports, knowingly and willfully grants, issues, or verifies any such passport to or for any person not owing allegiance, to the United States, whether a citizen or not—

Shall be fined under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense),[18] or both.

For purposes of this section, the term "State" means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

§ 1542. False Statement in Application and Use of Passport.

Whoever willfully and knowingly makes any false statement in an application for passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws; or

Whoever willfully and knowingly uses, or attempts to use, or furnishes to another for use any passport the issue of which was secured in any way by reason of any false statement—

Shall be fined under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense),[19] or both.

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[18] Sec. 211(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009) struck out "imprisoned not more than ten years" and inserted in lieu thereof "imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)".

[19] Sec. 211(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009) struck out "imprisoned not more than ten years" and inserted in lieu thereof "imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was

§ 1543. Forgery or False Use of Passport.

Whoever falsely makes, forges, counterfeits, mutilates, or alters any passport or instrument purporting to be a passport, with intent that the same may be used; or

Whoever willfully and knowingly uses, or attempts to use, or furnishes to another for use any such false, forged, counterfeited, mutilated, or altered passport or instrument purporting to be a passport, or any passport validly issued which has become void by the occurrence of any condition therein prescribed invalidating the same—

Shall be fined not under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense),[19] or both.

§ 1544. Misuse of Passport.

Whoever willfully and knowingly uses, or attempts to use, any passport issued or designed for the use of another; or

Whoever willfully and knowingly uses, or attempts to use, any passport in violation of the conditions or restrictions therein contained or of the rules prescribed pursuant to the laws regulating the issuance of passports; or

Whoever willfully and knowingly furnishes, disposes of, or delivers a passport to any person, for use by another than the person for whose use it was originally issued and designed—

Shall be fined under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense),[19] or both.

§ 1545. Safe Conduct Violation.

Whoever violates any safe conduct or passport duly obtained and issued under authority of the United States shall be fined under this title, imprisoned not more than 10 years, or both.

§ 1546. Fraud and Misuse of Visas, Permits, and Other Documents.

(a) Whoever knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of au-

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not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)".

thorized stay or employment in the United States, or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or

Whoever, except under direction of the Attorney General or the Commissioner of the Immigration and Naturalization Service, or other proper officer, knowingly possesses any blank permit, or engraves, sells, brings into the United States, or has in his control or possession any plate in the likeness of a plate designed for the printing of permits, or makes any print, photograph, or impression in the likeness of any immigrant or nonimmigrant visa, permit or other document required for entry into the United States, or has in his possession a distinctive paper which has been adopted by the Attorney General or the Commissioner of the Immigration and Naturalization Service for the printing of such visas, permits, or documents; or

Whoever, when applying for an immigrant or nonimmigrant visa, permit, or other document required for entry into the United States, or for admission to the United States personates another, or falsely appears in the name of a deceased individual, or evades or attempts to evade the immigration laws by appearing under an assumed or fictitious name without disclosing his true identity, or sells or otherwise disposes of, or offers to sell or otherwise dispose of, or utters, such visa, permit, or other document, to any person not authorized by law to receive such document; or

Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document which contains any such false statement or which fails to contain any reasonable basis in law or fact—

Shall be fined under this title or imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense),[20] or both.

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[20] Sec. 211(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009) struck out "imprisoned not more than ten years" and inserted in lieu thereof "imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)".

(b) Whoever uses—

(1) an identification document, knowing (or having reason to know) that the document was not issued lawfully for the use of the possessor,

(2) an identification document knowing (or having reason to know) that the document is false, or

(3) a false attestation,

for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act, shall be fined under this title, imprisoned not more than 5 years, or both.

(c) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970. For purposes of this section, the term "State" means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

CHAPTER 111—SHIPPING

§ Sec. 2280. Violence against maritime navigation

(a) OFFENSES.—

(1) IN GENERAL.—A person who unlawfully and intentionally—

(A) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

(B) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

(C) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

(D) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

(E) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

(F) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

(G) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (F); or

(H) attempts to do any act prohibited under subparagraphs (A) through (G),

shall be fined under this title, imprisoned not more than 20 years,or both; and if the death of any person results from conductprohibited by this paragraph, shall be punished by death orimprisoned for any term of years or for life.

(2) THREAT TO NAVIGATION.—A person who threatens to do any actprohibited under paragraph (1)(B), (C) or (E), with apparentdetermination and will to carry the threat into execution, if thethreatened act is likely to endanger the safe navigation of the shipin question, shall be fined under this title, imprisoned not morethan 5 years, or both.

(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a)—

(1) in the case of a covered ship, if—

(A) such activity is committed—

(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

(ii) in the United States and the activity is not prohibited as a crime by the State in which the activity takes place; or

(iii) the activity takes place on a ship flying the flag of a foreign country or outside the United States, by a national of the United States or by a stateless person whose habitual residence is in the United States;

(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

(C) the offender is later found in the United States after such activity is committed;

(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doingany act.

(c) BAR TO PROSECUTION.—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term "labor dispute" has the meaning set forth in section 2(c)[21] of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

(d) DELIVERY OF SUSPECTED OFFENDER.—The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that there is on board that ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action to take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever prac-

[21] So in original. Probably should be section "13(c)".

ticable, and if possible before entering the territorial sea of such country, notify the authorities of such country of the master's intention to deliver such person and the reasons therefor. If the master delivers such person, the master shall furnish to the authorities of such country the evidence in the master's possession that pertains to the alleged offense.

(e) DEFINITIONS.—In this section—

"covered ship" means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country.

"national of the United States" has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"territorial sea of the United States" means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

"ship" means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up.

"United States", when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and all territories and possessions of the United States.

§ 2281. Violence against maritime fixed platforms

(a) OFFENSES.—

(1) IN GENERAL.—A person who unlawfully and intentionally—

(A) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

(B) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

(C) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

(D) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

(E) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (D); or

(F) attempts to do anything prohibited under subparagraphs (A) through (E),

shall be fined under this title, imprisoned not more than 20 years, or both; and if death results to any person from conduct prohibited by this paragraph, shall be punished by death or imprisoned for any term of years or for life.

(2) THREAT TO SAFETY.—A person who threatens to do anything prohibited under paragraph (1)(B) or (C), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title, imprisoned not more than 5 years, or both.

(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

(1) such activity is committed against or on board a fixed platform—

(A) that is located on the continental shelf of the United States;

(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

(C) in an attempt to compel the United States to do or abstain from doing any act;

(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

(c) BAR TO PROSECUTION.—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term "labor dispute" has the meaning set forth in section 2(c)[22] of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

(d) DEFINITIONS.—In this section—

"continental shelf" means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea.

"fixed platform" means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

"national of the United States" has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"territorial sea of the United States" means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

"United States", when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the

[22] So in original. Probably should be section "13(c)".

Northern Mariana Islands and all territories and possessions of the United States.

CHAPTER 113B—TERRORISM[23]

§ 2331.[24] Definitions

As used in this chapter—

(1) the term "international terrorism" means activities that—

(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

(B) appear to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping; and

(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

(2) the term "national of the United States" has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

(3) the term "person" means any individual or entity capable of holding a legal or beneficial interest in property; and

(4) the term "act of war" means any act occurring in the course of—

(A) declared war;

(B) armed conflict, whether or not war has been declared, between two or more nations; or

(C) armed conflict between military forces of any origin.

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[23] Sec. 250002(a) of Public Law 103–322 (108 Stat. 2082) redesignated this chapter as chapter 113B from chapter 113A, and inserted a new chapter 113A relating to telemarketing fraud.

[24] Sec. 132 of Public Law 101–519 (104 Stat. 225) amended section 2331 of chapter 113A, title 18, U.S.C., redesignated it as section 2332, and added new secs. 2331, 2333 through 2338. Sec. 132(d) of that Act further provided that "This section and the amendments made by this section shall apply to any pending case and any cause of action arising on or after 3 years before the date of enactment of this section.".

However, sec. 402 of Public Law 102–27 (105 Stat. 155), as amended by sec. 126 of Public Law 102–136 (105 Stat. 643), repealed the amendments of Public Law 101–519, restoring sec. 2332 as sec. 2331. Sec. 402 of Public Law 102–27, as amended, provided as follows:

"SEC. 402. MILITARY CONSTRUCTION.

"(a) In Public Law 101–519, the Military Construction Appropriations Act, 1991, sections 131 and 132 are hereby repealed effective November 5, 1990.

"(b) Effective November 5, 1990, chapter 113A of title 18, United States Code, is amended to read as if section 132 of Public Law 101–519 [104 Stat. 2250] had not been enacted.".

Subsequently, sec. 1003(a) of the Federal Courts Administration Act of 1992 (Public Law 102–572; 106 Stat. 4521) redesignated sec. 2331 as 2332, and inserted new secs. 2331, 2333–2338, with such amendments applicable "to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act", pursuant to sec. 1003(c) of Public Law 102–572 (106 Stat. 4524; 18 U.S.C. 2331 note).

§ 2332.[25] Criminal penalties

(a) HOMICIDE.—Whoever kills a national of the United States, while such national is outside the United States, shall—

(1) if the killing is murder (as defined in section 1111(a), be fined under this title, punished by death or imprisonment for any term of years or for life, or both;

(2) if the killing is a voluntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than ten years, or both; and

(3) if the killing is an involuntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than three years, or both.

(b) ATTEMPT OR CONSPIRACY WITH RESPECT TO HOMICIDE.—Whoever outside the United States attempts to kill, or engages in a conspiracy to kill, a national of the United States shall—

(1) in the case of an attempt to commit a killing that is a murder as defined in this chapter, be fined under this title or imprisoned not more than 20 years, or both; and

(2) in the case of a conspiracy by two or more persons to commit a killing that is a murder as defined in section 1111(a) of this title, if one or more of such persons do any overt act to effect the object of the conspiracy, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned.

(c) OTHER CONDUCT.—Whoever outside the United States engages in physical violence—

(1) with intent to cause serious bodily injury to a national of the United States; or

(2) with the result that serious bodily harm is caused to a national of the United States;

shall be fined under this title or imprisoned not more than ten years, or both.

(d)[26] LIMITATION ON PROSECUTION.—No prosecution for any offense described in this section shall be undertaken by the United Stats except on written certification of the Attorney General or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions that, in the judgment of the certifying official, such offense was intended to coerce, intimidate, or retaliate against a government or a civilian population.

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[25] This section was added as sec. 2331 by sec. 1202(a) of Public Law 99–399 (100 Stat. 896), with a caption that read "Terrorist acts abroad against United States nationals". Sec. 1003(a)(2) of Public Law 102–572 (106 Stat. 4521) redesignated sec. 2331 as 2332, struck out the caption, and inserted in its place a caption that read "Criminal penalties", with such amendment applicable "to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act", pursuant to sec. 1003(c) of Public Law 102–572 (106 Stat. 4524; 18 U.S.C. 2331 note).

[26] Sec. 1003(a)(1) of Public Law 102–572 (106 Stat. 4521) struck out subsec. (d), and redesignated subsec. (e) as (d), with such amendment applicable "to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act", pursuant to sec. 1003(c) of Public Law 102–572 (106 Stat. 4524; 18 U.S.C. 2331 note). Subsec. (d) defined "national of the United States" as having the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

§ 2332a.[27] Use of certain weapons of mass destruction

(a)[28] OFFENSE AGAINST A NATIONAL OF THE UNITED STATES OR WITHIN THE UNITED STATES.—A person who, without lawful authority, uses, threatens, or attempts[29] or conspires to use, a weapon of mass destruction (other than a chemical weapon as that term is defined in section 229F), including any biological agent, toxin, or vector (as those terms are defined in section 178)—[30]

(1) against a national of the United States while such national is outside of the United States;

(2) against any person within the United States, and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce;[31] or

(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States,

shall be imprisoned for any term of years or for life, and if death results, shall be imprisoned by death or imprisoned for any term of years of for life.

(b)[32] OFFENSE BY NATIONAL OF THE UNITED STATES OUTSIDE OF THE UNITED STATES.—Any national of the United States who, without lawful authority, uses, or threatens, attempts, or conspires to use, a weapon of mass destruction (other than a chemical weapon (as that term is defined in section 229F)) outside of the United States shall be imprisoned for any term of years or for life, and if death results, shall be punished by death, or by imprisonment for any term of years or for life.

(c)[32] DEFINITIONS.—For purposes of this section—

(1) the term "national of the United States" has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

(2) the term "weapon of mass destruction" means—

(A) any destructive device as defined in section 921 of this title;

(B) any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;

(C) any weapon involving a disease organism; or

(D) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

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[27] Sec. 60023(a) of Public Law 103–322 (108 Stat. 1980) added sec. 2332a.

[28] Sec. 725(1)(A) of Public Law 104–132 (110 Stat. 1300) inserted "AGAINST A NATIONAL OF THE UNITED STATES OR WITHIN THE UNITED STATES" after "OFFENSE" in the subsec. heading.

[29] Sec. 725(1)(B) of Public Law 104–132 (110 Stat. 1300) struck out "uses, or attempts" and inserted in lieu thereof ", without lawful authority, uses, threatens, or attempts".

[30] Sec. 511(c) of Public Law 104–132 (110 Stat. 1284) added "including any biological agent, toxin, or vector (as those terms are defined in section 178)" after "destruction".

[31] Sec. 725(1)(C) of Public Law 104–132 (110 Stat. 1300) added ", and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce".

[32] Sec. 725(3) and (4) of Public Law 104–132 (110 Stat. 1300) redesignated subsec. (b) as subsec. (c), and added a new subsec. (b).

§ 2332b.[33] Acts of terrorism transcending national boundaries

(a) PROHIBITED ACTS.—

(1) OFFENSES.—Whoever, involving conduct transcending national boundaries and in a circumstance described in subsection (b)—

(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any person within the United States; or

(B) creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the United States or by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the United States;

in violation of the laws of any State, or the United States, shall be punished as prescribed in subsection (c).

(2) TREATMENT OF THREATS, ATTEMPTS AND CONSPIRACIES.—Whoever threatens to commit an offense under paragraph (1), or attempts or conspires to do so, shall be punished under subsection (c).

(b) JURISDICTIONAL BASES.—

(1) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are—

(A) the mail or any facility of interstate or foreign commerce is used in furtherance of the offense;

(B) the offense obstructs, delays, or affects interstate or foreign commerce, or would have so obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

(C) the victim, or intended victim, is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

(D) the structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, or leased to the United States, or any department or agency of the United States;

(E) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

(F) the offense is committed within the special maritime and territorial jurisdiction of the United States.

(2) CO-CONSPIRATORS AND ACCESSORIES AFTER THE FACT.—Jurisdiction shall exist over all principals and co-conspirators of an offense under this section, and accessories after the fact to any offense under this section, if at least one of the circumstances described in subparagraphs (A) through (F) of paragraph (1) is applicable to at least one offender.

(c) PENALTIES.—

[33] Added by sec. 702(a) of Public Law 104–132 (110 Stat. 1291).

(1) PENALTIES.—Whoever violates this section shall be punished—

(A) for a killing, or if death results to any person from any other conduct prohibited by this section, by death, or by imprisonment for any term of years or for life;

(B) for kidnapping, by imprisonment for any term of years or for life;

(C) for maiming, by imprisonment for not more than 35 years;

(D) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

(F) for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

(G) for threatening to commit an offense under this section, by imprisonment for not more than 10 years.

(2) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section; nor shall the term of imprisonment imposed under this section run concurrently with any other term of imprisonment.

(d) PROOF REQUIREMENTS.—The following shall apply to prosecutions under this section:

(1) KNOWLEDGE.—The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

(2) STATE LAW.—In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

(e) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction—

(1) over any offense under subsection (a), including any threat, attempt, or conspiracy to commit such offense; and

(2) over conduct which, under section 3, renders any person an accessory after the fact to an offense under subsection (a).

(f) INVESTIGATIVE AUTHORITY.—In addition to any other investigative authority with respect to violations of this title, the Attorney General shall have primary investigative responsibility for all Federal crimes of terrorism, and the Secretary of the Treasury shall assist the Attorney General at the request of the Attorney General. Nothing in this section shall be construed to interfere with the authority of the United States Secret Service under section 3056.

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

(1) the term "conduct transcending national boundaries" means conduct occurring outside of the United States in addition to the conduct occurring in the United States;

(2) the term "facility of interstate or foreign commerce" has the meaning given that term in section 1958(b)(2);

(3) the term "serious bodily injury" has the meaning given that term in section 1365(g)(3);

(4) the term "territorial sea of the United States" means all waters extending seaward to 12 nautical miles from the baselines of the United States, determined in accordance with international law; and

(5) the term "Federal crime of terrorism" means an offense that—

(A) is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and

(B) is a violation of—

(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 (relating to biological weapons), 351 (relating to congressional, cabinet, and Supreme Court assassination, kidnapping, and assault), 831 (relating to nuclear materials), 842 (m) or (n) (relating to plastic explosives), 844(e) (relating to certain bombings), 844 (f) or (i) (relating to arson and bombing of certain property),930(c),[34] 956 (relating to conspiracy to injure property of a foreign government), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property or contracts), 1362 (relating to destruction of communication lines, stations, or systems), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of an energy facility), 1751 (relating to Presidential and Presidential staff assassination, kidnapping, and assault), 1992,[34] 2152 (relating to injury of fortifications, harbor defenses, or defensive sea areas), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and other violence against United States nationals occurring outside of the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2332c,[34] 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture);

[34] Sec. 601(s)(3) of Public Law 104–294 (110 Stat. 3502) inserted reference to secs. 930(c), 1992, and 2332c.

(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or

(iii) section 46502 (relating to aircraft piracy) or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.

§ 2332c.[35] Use of chemical weapons

(a) PROHIBITED ACTS.—

(1) OFFENSE.—A person shall be punished under paragraph (2) if that person, without lawful authority, uses, or attempts or conspires to use, a chemical weapon against—

(A) a national of the United States while such national is outside of the United States;

(B) any person within the United States; or

(C) any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States.

(2) PENALTIES.—A person who violates paragraph (1)—

(A) shall be imprisoned for any term of years or for life; or

(B) if death results from that violation, shall be punished by death or imprisoned for any term of years or for life.

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

(1) the term "national of the United States" has the same meaning as in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

(2) the term "chemical weapon" means any weapon that is designed or intended to cause widespread death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or precursors of toxic or poisonous chemicals.

§ 2332d.[36] Financial transactions

(a) OFFENSE.—Except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, whoever, being a United States person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act (50 U.S.C. App. 2405) as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be fined under this title, imprisoned for not more than 10 years, or both.

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

(1) the term "financial transaction" has the same meaning as in section 1956(c)(4); and

(2) the term "United States person" means any—

(A) United States citizen or national;

(B) permanent resident alien;

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[35] Sec. 521(a) of Public Law 104–132 (110 Stat. 1286) added sec. 2332c.

[36] Sec. 321(a) of Public Law 104–132 (110 Stat. 1254) added sec. 2332d. Sec. 321(c) of that Act also provided that "The amendments made by this section shall become effective 120 days after the date of enactment of this Act." [enactment date, April 24, 1996].

(C) juridical person organized under the laws of the United States; or

(D) any person in the United States.

§ 2332e.[37] Requests for military assistance to enforce prohibition in certain emergencies

The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 2332c of this title during an emergency situation involving a chemical weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

§ 2333.[24] Civil remedies

(a) ACTION AND JURISDICTION.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney's fees.

(b) ESTOPPEL UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 46314, 46502, 46505, or 46506 of title 49[38] shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

(c) ESTOPPEL UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

§ 2334.[24] Jurisdiction and venue

(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district court of

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[37] Sec. 1416(c)(2)(A) of Public Law 104–201 (110 Stat. 2723) added this section as section 2332d to "chapter 133B of title 18, United States Code, that relates to terrorism after section 2332c". There is no chapter 133B; it is assumed the amendment is to chapter 113B. Sec. 605(q) of Public Law 104–294 (110 Stat. 3510) subsequently redesignated the section as sec. 2332e and moved the section to follow sec. 2332d.

[38] Sec. 2(1) of Public Law 103–429 (108 Stat. 4377) struck out "section 902(i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i), (k), (l), (n), or (r))" and inserted in lieu thereof "section 46314, 46502, 46505, or 46506 of title 49".

the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 of this title may be served in any other district where the defendant resides, is found, or has an agent.

(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 of this title on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

(2) that foreign court is significantly more convenient and appropriate; and

(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

§ 2335.[24] Limitation of actions

(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this title shall not be maintained unless commenced within 4 years after the date the cause of action accrued.

(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or of any concealment of the defendant's whereabouts, shall not be included in the 4–year period set forth in subsection (a).

§ 2336.[24] Other limitations

(a) ACTS OF WAR.—No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war.

(b) LIMITATION ON DISCOVERY.—If a party to an action under section 2333 seeks to discover the investigative files of the Department of Justice, the Assistant Attorney General, Deputy Attorney General, or Attorney General may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any such objections in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure. If the court grants a stay of discovery under this subsection, it may stay the action in the interests of justice.

(c) STAY OF ACTION FOR CIVIL REMEDIES.—(1) The Attorney General may intervene in any civil action brought under section 2333 for the purpose of seeking a stay of the civil action. A stay shall

be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6–month periods until the criminal prosecution is completed or dismissed.

(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

§ 2337.[24] Suits against Government officials

No action shall be maintained under section 2333 of this title against—

(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within his or her official capacity or under color of legal authority; or

(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within his or her official capacity or under color of legal authority.

§ 2338.[24] Exclusive Federal jurisdiction

The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter.

§ 2339A.[39] Providing material support to terrorists

(a) OFFENSE.—Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 37, 81, 175, 351, 831, 842 (m) or (n), 844 (f) or (i), 930(c), 956, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 1992, 2155, 2156, 2280, 2281, 2332, 2332a, 2332b, 2332c, or 2340A of this title or section 46502 of title 49, or in preparation for, or in carrying out, the concealment or an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.

(b) DEFINITION.—In this section, the term "material support or resources" means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

§ 2339B.[40] Providing material support or resources to designated foreign terrorist organizations

(a) PROHIBITED ACTIVITIES.—

[39] No sec. 2339 is enacted. Sec. 2339A was added by sec. 120005(a) of Public Law 103–322 (108 Stat. 2022), and amended and restated by sec. 323 of Public Law 104–132 (110 Stat. 1255).

[40] Sec. 303(a) of Public Law 104–132 (110 Stat. 1250) added sec. 2339B.

(1) UNLAWFUL CONDUCT.—Whoever, within the United States or subject to the jurisdiction of the United States, knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so, shall be fined under this title or imprisoned not more than 10 years, or both.

(2) FINANCIAL INSTITUTIONS.—Except as authorized by the Secretary, any financial institution that becomes aware that it has possession of, or control over, any funds in which a foreign terrorist organization, or its agent, has an interest, shall—

(A) retain possession of, or maintain control over, such funds; and

(B) report to the Secretary the existence of such funds in accordance with regulations issued by the Secretary.

(b) CIVIL PENALTY.—Any financial institution that knowingly fails to comply with subsection (a)(2) shall be subject to a civil penalty in an amount that is the greater of—

(A) $50,000 per violation; or

(B) twice the amount of which the financial institution was required under subsection (a)(2) to retain possession or control.

(c) INJUNCTION.—Whenever it appears to the Secretary or the Attorney General that any person is engaged in, or is about to engage in, any act that constitutes, or would constitute, a violation of this section, the Attorney General may initiate civil action in a district court of the United States to enjoin such violation.

(d) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

(e) INVESTIGATIONS.—

(1) IN GENERAL.—The Attorney General shall conduct any investigation of a possible violation of this section, or of any license, order, or regulation issued pursuant to this section.

(2) COORDINATION WITH THE DEPARTMENT OF THE TREASURY.—The Attorney General shall work in coordination with the Secretary in investigations relating to—

(A) the compliance or noncompliance by a financial institution with the requirements of subsection (a)(2); and

(B) civil penalty proceedings authorized under subsection (b).

(3) REFERRAL.—Any evidence of a criminal violation of this section arising in the course of an investigation by the Secretary or any other Federal agency shall be referred immediately to the Attorney General for further investigation. The Attorney General shall timely notify the Secretary of any action taken on referrals from the Secretary, and may refer investigations to the Secretary for remedial licensing or civil penalty action.

(f) CLASSIFIED INFORMATION IN CIVIL PROCEEDINGS BROUGHT BY THE UNITED STATES.—

(1) DISCOVERY OF CLASSIFIED INFORMATION BY DEFENDANTS.—

(A) REQUEST BY UNITED STATES.—In any civil proceeding under this section, upon request made ex parte and in writing by the United States, a court, upon a sufficient showing, may authorize the United States to—

(i) redact specified items of classified information from documents to be introduced into evidence or made available to the defendant through discovery under the Federal Rules of Civil Procedure;

(ii) substitute a summary of the information for such classified documents; or

(iii) substitute a statement admitting relevant facts that the classified information would tend to prove.

(B) ORDER GRANTING REQUEST.—If the court enters an order granting a request under this paragraph, the entire text of the documents to which the request relates shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

(C) DENIAL OF REQUEST.—If the court enters an order denying a request of the United States under this paragraph, the United States may take an immediate, interlocutory appeal in accordance with paragraph (5). For purposes of such an appeal, the entire text of the documents to which the request relates, together with any transcripts of arguments made ex parte to the court in connection therewith, shall be maintained under seal and delivered to the appellate court.

(2) INTRODUCTION OF CLASSIFIED INFORMATION; PRECAUTIONS BY COURT.—

(A) EXHIBITS.—To prevent unnecessary or inadvertent disclosure of classified information in a civil proceeding brought by the United States under this section, the United States may petition the court ex parte to admit, in lieu of classified writings, recordings, or photographs, one or more of the following:

(i) Copies of items from which classified information has been redacted.

(ii) Stipulations admitting relevant facts that specific classified information would tend to prove.

(iii) A declassified summary of the specific classified information.

(B) DETERMINATION BY COURT.—The court shall grant a request under this paragraph if the court finds that the redacted item, stipulation, or summary is sufficient to allow the defendant to prepare a defense.

(3) TAKING OF TRIAL TESTIMONY.—

(A) OBJECTION.—During the examination of a witness in any civil proceeding brought by the United States under this subsection, the United States may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible.

(B) ACTION BY COURT.—In determining whether a response is admissible, the court shall take precautions to guard against the compromise of any classified information, including—

(i) permitting the United States to provide the court, ex parte, with a proffer of the witness's response to the question or line of inquiry; and

(ii) requiring the defendant to provide the court with a proffer of the nature of the information that the defendant seeks to elicit.

(C) OBLIGATION OF DEFENDANT.—In any civil proceeding under this section, it shall be the defendant's obligation to establish the relevance and materiality of any classified information sought to be introduced.

(4) APPEAL.—If the court enters an order denying a request of the United States under this subsection, the United States may take an immediate interlocutory appeal in accordance with paragraph (5).

(5) INTERLOCUTORY APPEAL.—

(A) SUBJECT OF APPEAL.—An interlocutory appeal by the United States shall lie to a court of appeals from a decision or order of a district court—

(i) authorizing the disclosure of classified information;

(ii) imposing sanctions for nondisclosure of classified information; or

(iii) refusing a protective order sought by the United States to prevent the disclosure of classified information.

(B) EXPEDITED CONSIDERATION.—

(i) IN GENERAL.—An appeal taken pursuant to this paragraph, either before or during trial, shall be expedited by the court of appeals.

(ii) APPEALS PRIOR TO TRIAL.—If an appeal is of an order made prior to trial, an appeal shall be taken not later than 10 days after the decision or order appealed from, and the trial shall not commence until the appeal is resolved.

(iii) APPEALS DURING TRIAL.—If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved, and the court of appeals—

(I) shall hear argument on such appeal not later than 4 days after the adjournment of the trial;

(II) may dispense with written briefs other than the supporting materials previously submitted to the trial court;

(III) shall render its decision not later than 4 days after argument on appeal; and

(IV) may dispense with the issuance of a written opinion in rendering its decision.

(C) EFFECT OF RULING.—An interlocutory appeal and decision shall not affect the right of the defendant, in a subsequent appeal from a final judgment, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.

(6) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and State secrets privilege.

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

(1) the term "classified information" has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

(2) the term "financial institution" has the same meaning as in section 5312(a)(2) of title 31, United States Code;

(3) the term "funds" includes coin or currency of the United States or any other country, traveler's checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable instrument, and any electronic representation of any of the foregoing;

(4) the term "material support or resources" has the same meaning as in section 2339A;

(5) the term "Secretary" means the Secretary of the Treasury; and

(6) the term "terrorist organization" means an organization designated as a terrorist organization under section 219 of the Immigration and Nationality Act.

PART II—CRIMINAL PROCEDURE

CHAPTER 204—REWARDS FOR INFORMATION CONCERNING TERRORIST ACTS AND ESPIONAGE

§ 3071. Information for which rewards authorized

(a) With respect to acts of terrorism primarily within the territorial jurisdiction of the United States, the Attorney General may reward any individual who furnishes information—

(1) leading to the arrest or conviction, in any country, of any individual or individuals for the commission of an act of terrorism against a United States person or United States property; or

(2) leading to the arrest or conviction, in any country, of any individual or individuals for conspiring or attempting to commit an act of terrorism against a United States person or property; or

(3) leading to the prevention, frustration, or favorable resolution of an act of terrorism against a United States person or property.

(b) With respect to acts of espionage involving or directed at the United States, the Attorney General may reward any individual who furnished information—

(1) leading to the arrest or conviction, in any country, of any individual or individuals for commission of an act of espionage against the United States;

(2) leading to arrest or conviction, in any country, of any individual or individuals for conspiring or attempting to commit an act of espionage against the United States; or

(3) leading to the prevention or frustration of an act of espionage against the United States.

§ 3072. Determination of entitlement; maximum amount; Presidential approval; conclusiveness

The Attorney General shall determine whether an individual furnishing information described in section 3071 is entitled to a re-

ward and the amount to be paid. A reward under this section may be in an amount not to exceed $500,000. A reward of $100,000 or more may not be made without the approval of the President or the Attorney General personally. A determination made by the Attorney General or the President under this chapter shall be final and conclusive, and no court shall have power or jurisdiction to review it.

§ 3073. Protection of identity

Any reward granted under this chapter shall be certified for payment by the Attorney General. If it is determined that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Attorney General may take such measures in connection with the payment of the reward as deemed necessary to effect such protection.

§ 3074. Exception of governmental officials

No officer or employee of any governmental entity who, while in the performance of his or her official duties, furnishes the information described in section 3071 shall be eligible for any monetary reward under this chapter.

§ 3075. Authorization for appropriations

There are authorized to be appropriated, without fiscal year limitation, $5,000,000 for the purpose of this chapter.

§ 3076. Eligibility for witness security program

Any individual (and the immediate family of such individual) who furnishes information which would justify a reward by the Attorney General under this chapter or by the Secretary of State under section 36 of the State Department Basic Authorities Act of 1956 may, in the discretion of the Attorney General, participate in the Attorney General's witness security program authorized under chapter 224 of this title.

§ 3077. Definitions

As used in this chapter, the term—

(1) "act of terrorism" means an activity that—

(A) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States; and

(B) appears to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping;

(2) "United States person" means—

(A) a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

(B) an alien lawfully admitted for permanent residence in the United States as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(C) any person within the United States;

(D) any employee or contractor of the United States Government, regardless of nationality, who is the victim or intended victim of an act of terrorism by virtue of that employment;

(E) a sole proprietorship, partnership, company, or association composed principally of nationals or permanent resident aliens of the United States; and

(F) a corporation organized under the laws of the United States, any State, the District of Columbia, or any territory or possession of the United States, and a foreign subsidiary of such corporation;

(3) "United States property" means any real or personal property which is within the United States or, if outside the United States, the actual or beneficial ownership of which rests in a United States person or any Federal or State governmental entity of the United States;

(4) "United States", when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States;

(5) "State" includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States;

(6) "government entity" includes the Government of the United States, any State or political subdivision thereof, any foreign country, and any state, provincial, municipal, or other political subdivision of a foreign country;

(7) "Attorney General" means the Attorney General of the United States or that official designated by the Attorney General to perform the Attorney General's responsibilities under this chapter; and

(8) "act of espionage" means an activity that is a violation of—

(A) section 793, 794, or 798 of this title; or

(B) section 4 of the Subversive Activities Control Act of 1950.

CHAPTER 213—LIMITATIONS

§ 3286. Extension of statute of limitation for certain terrorism offenses.

Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32 (aircraft destruction), section 36[41] (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform vio-

[41] So in original. Probably should be section "37".

lence), section 2331 (terrorist acts abroad against United States nationals), section 2339[42] (use of weapons of mass destruction), or section 2340A (torture) of this title or section 46502, 46504, 46505, or 46506 of title 49, unless the indictment is found or the information is instituted within 8 years after the offense was committed.

§ 3291. Nationality, citizenship and passports.

No person shall be prosecuted, tried, or punished for violation of any provision of sections 1423 to 1428, inclusive, of chapter 69 and sections 1541 to 1544, inclusive, of chapter 75 of title 18 of the United States Code, or for conspiracy to violate any of such sections, unless the indictment is found or the information is instituted within ten years after the commission of the offense.

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CHAPTER 228—DEATH SENTENCE

§ 3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified

(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:

(1) IMPAIRED CAPACITY.—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

(3) MINOR PARTICIPATION.—The defendant is punishable as a principal in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

(4) EQUALLY CULPABLE DEFENDANTS.—Another defendant or defendants, equally culpable in the crime, will not be punished by death.

(5) NO PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior history of other criminal conduct.

(6) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

(7) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

(8) OTHER FACTORS.—Other factors in the defendant's background, record, or character or any other circumstance of the offense that mitigate against imposition of the death sentence.

(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a)(1), the jury, or if there is no jury, the

[42] So in original. Probably should be section "2332a".

court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

(1) PRIOR ESPIONAGE OR TREASON OFFENSE.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of either life imprisonment or death was authorized by law.

(2) GRAVE RISK TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

(3) GRAVE RISK OF DEATH.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

(c) AGGRAVATING FACTORS FOR HOMICIDE.—In determining whether a sentence of death is justified for an offense described in section 3591(a)(2), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

(1) DEATH DURING COMMISSION OF ANOTHER CRIME.—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36[43] (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 1118 (prisoners serving life term), section 1201 (kidnapping), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1203 (hostage taking), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339[44] (use of weapons of mass destruction), or section 2381 (treason) of this title, or section 46502 of title 49, United States Code (aircraft piracy).

(2) PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—For any offense, other than an offense for which a sentence of death is sought on the basis of section 924(c), the defendant has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year, involving the use or attempted or threatened use of a firearm (as defined in section 921) against another person.

(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—

[43] So in original. Probably should be section "37".
[44] So in original. Probably should be section "2332a".

The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, punishable by a term of imprisonment of more than 1 year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to 1 or more persons in addition to the victim of the offense.

(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMITTING OFFENSE.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

(8) PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism.

(10) CONVICTION FOR TWO FELONY DRUG OFFENSES.—The defendant has previously been convicted of 2 or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

(12) CONVICTION FOR SERIOUS FEDERAL DRUG OFFENSES.—The defendant had previously been convicted of violating title II or III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

(13) CONTINUING CRIMINAL ENTERPRISE INVOLVING DRUG SALES TO MINORS.—The defendant committed the offense in the course of engaging in a continuing criminal enterprise in violation of section 408(c) of the Controlled Substances Act (21 U.S.C. 848(c)), and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 418 of that Act (21 U.S.C. 859).

(14) HIGH PUBLIC OFFICIALS.—The defendant committed the offense against—

(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the Presi-

dent of the United States, or any person who is acting as President under the Constitution and laws of the United States;

(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

(C) a foreign official listed in section 1116(b)(3)(A), if the official is in the United States on official business; or

(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

(i) while he or she is engaged in the performance of his or her official duties;

(ii) because of the performance of his or her official duties; or

(iii) because of his or her status as a public servant.

For purposes of this subparagraph, a "law enforcement officer" is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution or adjudication of an offense, and includes those engaged in corrections, parole, or probation functions.

* * * * * * *

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

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4. Violent Crime Control and Law Enforcement Act of 1994

Partial text of Title XII of Public Law 103–322 [H.R. 3355], 108 Stat. 1796 at 1959, 1975 and following, approved September 13, 1994

AN ACT To control and prevent crime.

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 'Violent Crime Control and Law Enforcement Act of 1994'.

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TITLE XII—TERRORISM

* * * * * * *

SEC. 120004. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an appropriate enhancement for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

5. Act for the Protection of Foreign Officials and Official Guests of the United States

Partial text of Public Law 92–539 [H.R. 15883], 86 Stat. 1070, approved October 24, 1972

AN ACT To amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes.

NOTE.—Sections 112, 970, 1117, and 1201 of 18 U.S.C. which were enacted by this Act can be found in Section C.3.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act maybe cited as the "Act for the Protection of Foreign Officials and Official Guests of the United States".

SEC. 2. The Congress recognizes that from the beginning of our history as a nation, the police power to investigate, prosecute, and punish common crimes such as murder, kidnapping, and assault has resided in the several States, and that such power should remain with the States.

The Congress finds, however, that harassment, intimidation, obstruction, coercion, and acts of violence committed against foreign officials or their family members in the United States or against official guests of the United States adversely affect the foreign relations of the United States.

Accordingly, this legislation is intended to afford the United States jurisdiction concurrent with that of the several States to proceed against those who by such acts interfere with its conduct of foreign affairs.

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6. Anti-Terrorism and Arms Export Amendments Act of 1989

Public Law 101–222 [H.R. 91], 103 Stat. 1892, approved December 12, 1989

AN ACT To prohibit exports of military equipment to countries supporting international terrorism, and for other purposes.

NOTE.—The Anti-Terrorism and Arms Export Amendments Act of 1989 consists of amendments to the Arms Export Control Act, the Foreign Assistance Act of 1961, the Export Administration Act, and the Revised Statutes of the United States (22 U.S.C. 1732), except for sec. 10 which provides as follows.

SEC. 10.[1] SELF-DEFENSE IN ACCORDANCE WITH INTERNATIONAL LAW.

The use by any government of armed force in the exercise of individual or collective self-defense in accordance with applicable international agreements and customary international law shall not be considered an act of international terrorism for purposes of the amendments made by this Act.

[1] 22 U.S.C. 2371 note.

7. Biological Weapons Anti-Terrorism Act of 1989

Partial text Public Law 101–298 [S. 993] 104 Stat. 201, approved May 22, 1990

AN ACT To implement the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction, by prohibiting certain conduct relating to biological weapons, 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.[1]

This Act may be cited as the 'Biological Weapons Anti-Terrorism Act of 1989'.

SEC. 2. PURPOSE AND INTENT.[2]

(a) PURPOSE.—The purpose of this Act is to—

(1) implement the Biological Weapons Convention, an international agreement unanimously ratified by the United States Senate in 1974 and signed by more than 100 other nations, including the Soviet Union; and

(2) protect the United States against the threat of biological terrorism.

(b) INTENT OF ACT.—Nothing in this Act is intended to restrain or restrict peaceful scientific research or development.

SEC. 3. TITLE 18 AMENDMENTS.[3]

IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 9 the following:

* * * * * * *

[1] 18 U.S.C. 175 note.
[2] 18 U.S.C. 175 note.
[3] The Biological Weapons Anti-Terrorism Act of 1989, as amended, enacted a new chapter 10 to 18 U.S.C. relating to biological weapons and to implement the Biological Weapons Convention. The text of this chapter can be found in Section C.3.

8. 1984 Act to Combat International Terrorism

Public Law 98–533 [H.R. 6311], 98 Stat. 2706, approved October 19, 1984, as amended

AN ACT To combat international terrorism.

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 "1984 Act to Combat International Terrorism".

TITLE I—REWARDS FOR INFORMATION ON INTERNATIONAL TERRORISM

AUTHORITY OF THE ATTORNEY GENERAL

SEC. 101.[1] (a) Title 18 of the United States Code is amended by adding the following new chapter after chapter 203:

* * * * * * *

TITLE II—INTERNATIONAL COOPERATION

INCREASING INTERNATIONAL COOPERATION TO COMBAT TERRORISM

SEC. 201. (a) The President is urged to seek more effective international cooperation in combatting international terrorism, including—

(1) severe punishment for acts of terrorism, which endanger the lives of diplomatic staff, military personnel, other government personnel, or private citizens; and

(2) extradition of all terrorists and their accomplices to the country where the terrorist incident occurred or whose citizens were victims of the incident.

(b) High priority should also be given to negotiations leading to the establishment of a permanent international working group which would combat international terrorism by—

(1) promoting international cooperation among countries;

(2) developing new methods, procedures, and standards to combat international terrorism;

(3) negotiating agreements for exchanges of information and intelligence and for technical assistance; and

(4) examining the use of diplomatic immunity and diplomatic facilities to further international terrorism.

[1] Sec. 101 enacted a new chapter 204 to 18 U.S.C. relating to rewards for information concerining terrorist acts. The text of this chapter can be found in Section C.3.

This working group should have subgroups or appropriate matters, including law enforcement and crisis management.

TITLE III—SECURITY OF UNITED STATES MISSIONS ABROAD

ADVISORY PANEL ON SECURITY OF UNITED STATES MISSIONS ABROAD

SEC. 301. In light of continued terrorist incidents and given the ever increasing threat of international terrorism directed at United States missions and diplomatic personnel abroad, the Congress believes that it is imperative that the Department of State review its approach to providing security against international terrorism. Not later than February 1, 1985, the Secretary of State shall report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs[2] of the House of Representatives on the findings and recommendations of the Advisory Panel on Security of United States Missions Abroad.

SECURITY ENHANCEMENT AT UNITED STATES MISSIONS ABROAD

SEC. 302. (a) In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated, without fiscal year limitation—

(1) $350,963,000 for the Department of State for "Administration of Foreign Affairs", and

(2) $5,315,000 for the United States Information Agency,

which amounts shall be for security enhancement at United States missions abroad.

(b) Not later than February 1, 1985, the Secretary of State and the Director of the United States Information Agency shall each report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs[2] of the House of Representatives on how their respective agencies have allocated the funds authorized to be appropriated by this section.

STATE DEPARTMENT BASIC AUTHORITIES

SEC. 303.[3] * * *

DANGER PAY

SEC. 304. In recognition of the current epidemic of worldwide terrorist activity and the courage and sacrifice of employees of United States agencies overseas, civilian as well as military, it is the sense of Congress that the provisions of section 5928 of title 5, United States Code, relating to the payment of danger pay allowance, should be more extensively utilized at United States missions abroad.

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[2] 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] Sec. 303 amended sec. 2 of the State Department Basic Authorities Act of 1956.

9. Foreign Sovereign Immunities

Title 28, United States Code—Judiciary and Judicial Procedure

Chapter 85—District Courts; Jurisdiction

§ 1330. Actions against foreign states

(a) The district courts shall have original jurisdiction without regard to amount in controversy of any nonjury civil action against a foreign state as defined in section 1603(a) of this title as to any claim for relief in personae with respect to which the foreign state is not entitled to immunity either under sections 1605–1607 of this title or under any applicable international agreement.

(b) Personal jurisdiction over a foreign state shall exist as to every claim for relief over which the district courts have jurisdiction under subsection (a) where service has been made under section 1608 of this title.

(c) For purposes of subsection (b), an appearance by a foreign state does not confer personal jurisdiction with respect to any claim for relief not arising out of any transaction or occurrence enumerated in sections 1605–1607 of this title.

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Chapter 97—JURISDICTIONAL IMMUNITIES OF FOREIGN STATES

Sec.
1602. Findings and declaration of purpose.
1603. Definitions.
1604. Immunity of a foreign state from jurisdiction.
1605. General exceptions to the jurisdictional immunity of a foreign state.
1606. Extent of liability.
1607. Counterclaims.
1608. Service; time to answer default.
1609. Immunity from attachment and execution of property of a foreign state.
1610. Exceptions to the immunity from attachment or execution.
1611. Certain types of property immune from execution.

§ 1602. Findings and declaration of purpose

The Congress finds that the determination by United States courts of the claims of foreign states to immunity from the jurisdiction of such courts would serve the interests of justice and would protect the rights of both foreign states and litigants in United States courts. Under international law, states are not immune from the jurisdiction of foreign courts insofar as their commercial activities are concerned, and their commercial property may be levied upon for the satisfaction of judgments rendered against them in connection with their commercial activities. Claims of foreign states to immunity should henceforth be decided by courts of the

United States and of the States in conformity with the principles set forth in this chapter.

§ 1603. Definitions

For purposes of this chapter—

(a) A "foreign state", except as used in section 1608 of this title, includes a political subdivision of a foreign state or an agency or instrumentality of a foreign state as defined in subsection (b).

(b) An "agency or instrumentality of a foreign state" means any entity—

(1) which is a separate legal person, corporate or otherwise, and

(2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and

(3) which is neither a citizen of a State of the United States as defined in section 1332 (c) and (d) of this title, nor created under the laws of any third country.

(c) The "United States" includes all territory and waters, continental or insular, subject to the jurisdiction of the United States.

(d) A "commercial activity" means either a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose.

(e) A "commercial activity carried on in the United States by a foreign state" means commercial activity carried on by such state and having substantial contact with the United States.

§ 1604. Immunity of a foreign state from jurisdiction

Subject to existing international agreements to which the United States is a party at the time of enactment of this Act a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States except as provided in sections 1605 to 1607 of this chapter.

§ 1605.[1] General exceptions to the jurisdictional immunity of a foreign state

(a) A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case—

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[1] Sec. 589 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:

"CIVIL LIABILITY FOR ACTS OF STATE SPONSORED TERRORISM

"SEC. 589. (a) an official, employee, or agent of a foreign state designated as a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 while acting within the scope of his or her office, employment, or agency shall be liable to a United States national or the national's legal representative for personal injury or death caused by acts of that official, employee, or agent for which the courts of the United States may maintain jurisdiction under section 1605(a)(7) of title 28, United States Code, for money damages which may include economic damages, solatium, pain, and suffering, and punitive damages if the acts were among those described in section 1605(a)(7).

(1) in which the foreign state has waived its immunity either explicitly or by implication, notwithstanding any withdrawal of the waiver which the foreign state may purport to effect except in accordance with the terms of the waiver;

(2) in which the action is based upon a commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States;

(3) in which rights in property taken in violation of international law are in issue and the property or any property exchanged for such property is present in the United States in connection with a commercial activity carried on in the United States by the foreign state; or that property or any property exchanged for such property is owned or operated by an agency or instrumentality of the foreign state and that agency or instrumentality is engaged in a commercial activity in the United States;

(4) in which rights in property in the United States acquired by succession or gift or rights in immovable property situated in the United States are in issue;

(5) not otherwise encompassed in paragraph (2) above, in which money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, occurring in the United States and caused by the tortious act or omission of that foreign state or of any official or employee of that foreign state while acting within the scope of his office or employment; except this paragraph shall not apply to—

(A) any claim based upon the exercise on performance or the failure to exercise or perform a discretionary function regardless of whether the discretion be abused, or

(B) any claim arising out of malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights;

(6) in which the action is brought, either to enforce an agreement made by the foreign state with or for the benefit of a private party to submit to arbitration all or any difference which have arisen or which may arise between the parties with respect to a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration under the laws of the United States, or to confirm an award made pursuant to such an agreement to arbitrate, if (A) the arbitration takes place or is intended to take place in the United States, (B) the agreement or award is or may be governed by a treaty or other international agreement in force for the United States calling for the recognition and enforcement of arbitral awards, (C) the underlying claim, save for the agree-

"(b) Provisions related to statute of limitations and limitations on discovery that would apply to an action brought under 28 U.S.C. 1605(f) and (g) shall also apply to actions brought under this section. No action shall be maintained under this action if an official, employee, or agent of the United States, while acting within the scope of his or her office, employment, or agency would not be liable for such acts if carried out within the United States.".

ment to arbitrate, could have been brought in a United States court under this section or section 1607, or (D) paragraph (1) of this subsection is otherwise applicable; or

(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph—

(A) if the foreign state was not designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) at the time the act occurred, unless later so designated as a result of such act; and

(B) even if the foreign state is or was so designated, if—

(i) the act occurred in the foreign state against which the claim has been brought and the claimant has not afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration; or

(ii) neither the claimant nor the victim was[2] a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act) when the act upon which the claim is based occurred.

(b) A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which a suit in admiralty is brought to enforce a maritime lien against a vessel or cargo of the foreign state, which maritime lien is based upon a commercial activity of the foreign state: *Provided,* That—

(1) notice of the suit is given by delivery of a copy of the summons and of the complaint to the person, or his agent, having possession of the vessel or cargo against which the maritime lien is asserted; and if the vessel or cargo is arrested pursuant to process obtained on behalf of the party bringing the suit, the service of process of arrest shall be deemed to constitute valid delivery of such notice, but the party bringing the suit shall be liable for any damages sustained by the foreign state as a result of the arrest if the party bringing the suit had actual or constructive knowledge that the vessel or cargo of a foreign state was involved; and[3]

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[2] Public Law 105–11 (111 Stat. 22) inserted "neither the claimant nor the victim was" in lieu of "the claimant or victim was not" at this point.

[3] Sec. 1(1) of Public Law 100–640 (102 Stat. 3333) inserted text to this point from the semicolon, and struck out the following: "but such notice shall not be deemed to have been delivered, nor may it thereafter be delivered, if the vessel or cargo is arrested pursuant to process obtained on behalf of the party bringing the suit—unless the party was unaware that the vessel or cargo of a foreign state was involved, in which event the service of process of arrest shall be deemed to constitute valid delivery of such notice; and".

(2) notice to the foreign state of the commencement of suit as provided in section 1608 of this title is initiated within ten days either of the delivery of notice as provided in paragraph (1) of this subsection or, in the case of a party who was unaware that the vessel or cargo of a foreign state was involved, of the date such party determined the existence of the foreign state's interest.

(c) Whenever notices is delivered under subsection (b)(1), the suit to enforce a maritime lien shall be thereafter proceed and shall be heard and determined according to the principles of law and rules of practice of suits in rem whenever it appears that, had the vessel been privately owned and possessed, a suit in rem might have been maintained. A decree against the foreign state may include costs of the suit and, if the decree is for a money judgment, interest as ordered by the court, except that the court may not award judgment against the foreign state in an amount greater than the value of the vessel or cargo upon which the maritime lien arose. Such value shall be determined as of the time notice is served under subsection (b)(1). Decrees shall be subject to appeal and revision as provided in other cases of admiralty and maritime jurisdiction. Nothing shall preclude the plaintiff in any proper case from seeking relief in personam in the same action brought to enforce a maritime lien as provided in this section.

(d) A foreign state shall not be immune from the jurisdiction of the courts of the United States in any action brought to foreclose a preferred mortgage, as defined in the Ship Mortgage Act, 1920 (46 U.S.C. 911 and following). Such action shall be brought, heard, and determined in accordance with the provisions of that Act and in accordance with the principles of law and rules of practice of suits in rem, whenever it appears that had the vessel been privately owned and possessed a suit in rem might have been maintained.

(e)[4] For purposes of paragraph (7) of subsection (a)—

(1) the terms "torture" and "extrajudicial killing" have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991;

(2) the term "hostage taking" has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

(3) the term "aircraft sabotage" has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

(f)[4] No action shall be maintained under subsection (a)(7) unless the action is commenced not later than 10 years after the date on which the cause of action arose. All principles of equitable tolling, including the period during which the foreign state was immune from suit, shall apply in calculating this limitation period.

(g)[4] LIMITATION ON DISCOVERY.—

(1) IN GENERAL.—(A) Subject to paragraph (2), if an action is filed that would otherwise be barred by section 1604, but for subsection (a)(7), the court, upon request of the Attorney General, shall stay any request, demand, or order for discovery on

[4] Sec. 221(a)(2) of Public Law 104–132 (110 Stat. 1241) added subsecs. (e) through (g).

the United States that the Attorney General certifies would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will no longer so interfere.

(B) A stay under this paragraph shall be in effect during the 12–month period beginning on the date on which the court issues the order to stay discovery. The court shall renew the order to stay discovery for additional 12–month periods upon motion by the United States if the Attorney General certifies that discovery would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action.

(2) SUNSET.—(A) Subject to subparagraph (B), no stay shall be granted or continued in effect under paragraph (1) after the date that is 10 years after the date on which the incident that gave rise to the cause of action occurred.

(B) After the period referred to in subparagraph (A), the court, upon request of the Attorney General, may stay any request, demand, or order for discovery on the United States that the court finds a substantial likelihood would—

(i) create a serious threat of death or serious bodily injury to any person;

(ii) adversely affect the ability of the United States to work in cooperation with foreign and international law enforcement agencies in investigating violations of United States law; or

(iii) obstruct the criminal case related to the incident that gave rise to the cause of action or undermine the potential for a conviction in such case.

(3) EVALUATION OF EVIDENCE.—The court's evaluation of any request for a stay under this subsection filed by the Attorney General shall be conducted ex parte and in camera.

(4) BAR ON MOTIONS TO DISMISS.—A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

(5) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States.

§ 1606. Extent of liability

As to any claim for relief with respect to which a foreign state is not entitled to immunity under section 1605 or 1607 of this chapter, the foreign state shall be liable in the same manner and to the same extent as a private individual under like circumstances; but a foreign state except for an agency or instrumentality thereof shall not be liable for punitive damages, except any action under section 1605(a)(7) or 1610(f);[5] if, however, in any case wherein death was caused, the law of the place where the action or omission occurred

[5] Sec. 117(b) of Public Law 105–277 (112 Stat. 2681–491) added ", except any action under section 1605(a)(7) or 1610(f)".

provides, or has been construed to provide, for damages only punitive in nature, the foreign state shall be liable for actual or compensatory damages measured by the pecuniary injuries resulting from such death which were incurred by the persons for whose benefit the action was brought.

§ 1607. Counterclaims

In any action brought by a foreign state, or in which a foreign state intervenes, in a court of the United States or of a State, the foreign state shall not be accorded immunity with respect to any counterclaim—

(a) for which a foreign state would not be entitled to immunity under section 1605 of this chapter had such claim been brought in a separate action against the foreign state; or

(b) arising out of the transaction or occurrence that is the subject matter of the claim of the foreign state; or

(c) to the extent that the counterclaim does not seek relief exceeding in amount or differing in kind from that sought by the foreign state.

§ 1608. Service; time to answer; default

(a) Service in the courts of the United States and of the States shall be made upon a foreign state or political subdivision of a foreign state:

(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the foreign state or political subdivision; or

(2) if no special arrangement exists, by delivery of a copy of the summons and complaint in accordance with an applicable international convention on service of judicial documents; or

(3) if service cannot be made under paragraph (1) or (2), by sending a copy of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the head of the ministry of foreign affairs of the foreign state concerned, or

(4) if service cannot be made within 30 days under paragraph (3), by sending two copies of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the Secretary of State in Washington, District of Columbia, to the attention of the Director of Special Consular Services—and the Secretary shall transmit one copy of the papers through diplomatic channels to the foreign state and shall send to the clerk of the court a certified copy of the diplomatic note indicating when the papers were transmitted.

As used in this subsection, a "notice of suit" shall mean a notice addressed to a foreign state and in a form prescribed by the Secretary of Safety regulation.

(b) Service in the courts of the United States and of the States shall be made upon an agency or instrumentality of a foreign state:

(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the agency or instrumentality; or

(2) if no special arrangement exists, by delivery of a copy of the summons and complaint either to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service or process in the United States; or in accordance with an applicable international convention or service on judicial document; or

(3) if service cannot be made under paragraph (1) or (2), and if reasonably calculated to given actual notice, by delivery of a copy of the summons and complaint, together with a translation of each into the official language of the foreign state—

(A) as directed by an authority of the foreign state or political subdivision in response to a letter rogatory or request or

(B) by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the agency or instrumentality to be served, or

(C) as directed by order of the court consistent with the law of the place where service is to be made.

(c) Service shall be deemed to have been made—

(1) in the case of service under subsection (a)(4), as of the date of transmittal indicated in the certified copy of the diplomatic note; and

(2) in any other case under this section, as of the date of receipt indicated in the certification, signed and returned postal receipt, or other proof of service applicable to the method of service employed.

(d) In any action brought in a court of the United States or of a State, a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state shall serve an answer or other responsive pleading to the complaint within sixty days after service has been made under this section.

(e) No judgment by default shall be entered by a court of the United States or of a State against a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the court. A copy of any such default judgment shall be sent to the foreign state or political subdivision in the manner prescribed for service in this section

§ 1609. Immunity from attachment and execution of property of a foreign state

Subject to existing international agreements to which the United States is a party at the time of enactment of this Act the property in the United States of a foreign state shall be immune from attachment arrest and execution except as provided in sections 1610 and 1611 of this chapter.

§ 1610. Exceptions to the immunity from attachment or execution

(a) The property in the United States of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial ac-

tivity in the United States, shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

(1) the foreign state has waived its immunity from attachment in aid of execution or from execution either explicitly or by implication, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, or

(2) the property is or was used for the commercial activity upon which the claim is based, or

(3) the execution relates to a judgment establishing rights in property which has been taken in violation of international law or which has been exchanged for property taken in violation of international law, or

(4) the execution relates to a judgment establishing rights in property—

(A) which is acquired by succession or gift, or

(B) which is immovable and situated in the United States: *Provided,* That such property is not used for purposes of maintaining a diplomatic or consular mission or the residence of the Chief of such mission, or

(5) the property consists of any contractual obligation or any proceeds from such a contractual obligation to indemnify or hold harmless the foreign state or its employees under a policy of automobile or other liability or casualty insurance covering the claim which merged into the judgment; or

(6) the judgment is based on an order confirming an arbitral award rendered against the foreign state, provided that attachment in aid of execution, or execution, would not be inconsistent with any provision in the arbitral agreement, or[6]

(7)[6] the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.

(b) In addition to subsection (a), any property in the United States of an agency or instrumentality of a foreign state engaged in commercial activity in the United States shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

(1) the agency or instrumentality has waived its immunity from attachment in aid execution or from execution either explicitly or implicitly, notwithstanding any withdrawal of the waiver the agency or instrumentality may purport to effect except in accordance with the terms of the waiver, or

(2) the judgment relates to a claim for which the agency or instrumentality is not immune by virtue of section 1605(a) (2), (3), (5), or (7) or 1605(b) of this chapter, regardless of whether the property is or was involved in the act upon which the claim is based.

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[6] Sec. 221(b)(1) of Public Law 104–132 (110 Stat. 1242) struck out a period at the end of para. (6), inserted instead ", or", and added a new para. (7).

(c) No attachment or execution referred to in subsections (a) and (b) of this section shall be permitted until the court has ordered such attachment and execution after having determined that a reasonable period of time has elapsed following the entry of judgment and the giving of any notice required under section 1608(e) of this chapter.

(d) The property of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment prior to the entry of judgment in any action brought in a court of the United States or of a State, or prior to the elapse of the period of time provided in subsection (c) of this section if—

(1) the foreign state has explicitly waived its immunity from attachment prior to judgment, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, and

(2) the purpose of the attachment is to secure satisfaction of a judgment that has been or may ultimately be entered against the foreign state, and not to obtain jurisdiction.

(e) The vessels of a foreign state shall not be immune from arrest in rem, interlocutory sale, and execution in actions brought to foreclose a preferred mortgage as provided in section 1605(d).

(f)(1)(A)[7] Notwithstanding any other provision of law, including but not limited to section 208(f) of the Foreign Missions Act (22 U.S.C. 4308(f)), and except as provided in subparagraph (B), any property with respect to which financial transactions are prohibited or regulated pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), sections 202 and 203 of the Inter-national Emergency Economic Powers Act (50 U.S.C. 1701–1702), or any other proclamation, order, regulation, or license issued pursuant thereto, shall be subject to execution or attachment in aid of execution of any judgment relating to a claim for which a foreign state (including any agency or instrumentality or such state) claim-ing such property is not immune under section 1605(a)(7).

(B) Subparagraph (A) shall not apply if, at the time the property is expropriated or seized by the foreign state, the property has been held in title by a natural person or, if held in trust, has been held for the benefit of a natural person or persons.

(2)(A) At the request of any party in whose favor a judgment has been issued with respect to a claim for which the foreign state is not immune under section 1605(a)(7), the Secretary of the Treasury and the Secretary of State shall fully, promptly, and effectively assist any judgment creditor or any court that has issued any such judgment in identifying, locating, and executing against the property of that foreign state or any agency or instrumentality of such state.

(B) In providing such assistance, the Secretaries—

(i) may provide such information to the court under seal; and

[7] Subsec. (f) was added by Public Law 105–277 (112 Stat. 2681–491).

(ii) shall provide the information in a manner sufficient to allow the court to direct the United States Marshall's office to promptly and effectively execute against that property.

§ 1611. Certain types of property immune from execution

(a) Notwithstanding the provisions of section 1610 of this chapter, the property of those organizations designated by the President as being entitled to enjoy the privileges, exemptions, and immunities provided by the International Organizations Immunities Act shall not be subject to attachment or any other judicial process impeding the disbursement of funds to, or on the order of, a foreign state as the result of an action brought in the courts of the United States or of the States.

(b) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from the execution, if—

(1) the property is that of a foreign central bank or monetary authority held for its own account, unless such bank or authority, or its parent foreign government, has explicitly waived its immunity from attachment in aid of execution, or from execution notwithstanding any withdrawal of the waiver which the bank, authority or government may purport to effect except in accordance with the terms of the waiver; or

(2) the property is, or is intended to be, used in connection with a military activity and

(A) is of a military character, or

(B) is under the control of a military authority or defense agency.

(c)[8] 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.

[8] Sec. 302(e) of Public Law 104–114 (110 Stat. 818) added subsec. (c).

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Subtitle A—General Military Law

PART I—ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 7—BOARDS, COUNCILS, AND COMMITTEES

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§ 182.[1] 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 andhumanitarian 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.

[1] Added by sec. 382(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1709).

(5) The Center shall perform such other missions as the Secretary of Defense may specify.

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CHAPTER 18—MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES

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§ 374. 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);

(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;

(C)[2] a foreign or domestic counter-terrorism operation;

or

(D)[2] a rendition of a suspected terrorist from a foreign country to the United States to stand trial.

(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) 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) Aerial reconnaissance.

(D) 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) Operation of equipment to facilitate communications in connection with law enforcement programs specified in paragraph (4)(A).

(F) Subject to joint approval by the Secretary of Defense andthe Attorney General (and the Secretary of State in the

[2] Added by sec. 201 of Public Law 105–277 (112 Stat. 2681–567).

case of a law enforcement operation outside of the land area of the United States)—

(i) the transportation of civilian law enforcement personnel along with any other civilian or military personnel who are supporting, or conducting, a joint operation with civilian law enforcement personnel;[3]

(ii) the operation of a base of operations for civilian law enforcement and supporting personnel; and

(iii)[2] the transportation of suspected terrorists from foreign countries to the United States for trial (so long as the requesting Federal law enforcement agency provides all security for such transportation and maintains custody over the suspect through the duration of the transportation).

(3) Department of Defense personnel made available to operate equipment for the purpose stated in paragraph (2)(D) 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 a Federal 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) 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.).

(v)[2] Any law, foreign or domestic, prohibiting terrorist activities.

(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 subsection (b)(2) 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.

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CHAPTER 101—TRAINING GENERALLY

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[3] The text beginning with "along with" to this point, was added by sec. 201 of Public Law 105–277 (112 Stat. 2681–567).

§ 2011.[4] Special operations forces: training with friendly foreign forces

(a) 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.

(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 depart-

[4] Added by sec. 1052(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1470).

ment (including deployments for training, short duration exercises, and other similar unit training events).

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CHAPTER 134—MISCELLANEOUS ADMINISTRATIVE PROVISIONS

SUBCHAPTER I—MISCELLANEOUS AUTHORITIES, PROHIBITIONS, AND LIMITATIONS ON THE USE OF APPROPRIATED FUNDS

* * * * * * *

§ 2249a.[5] 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 App. 2405(j));

(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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[5] Added by sec. 1341(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 485).

CHAPTER 137—PROCUREMENT GENERALLY

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§ 2327.[6] 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 subsidiary 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

[6] 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.

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) APPLICABILITY.—(1) This section does not apply to a contract for an amount less than $100,000.

(2) This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

(e) 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 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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§ 2576a.[7] 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.

[7] Sec. 1033(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2640) added sec. 2576a.

(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.

(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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2. Strom Thurmond National Defense Authorization Act for Fiscal Year 1999

Partial text of Public Law 105–261 [H.R. 3616], 112 Stat. 1920, approved October 17, 1998

AN ACT to authorize appropriations for fiscal year 1999 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 American in Congress assembled,

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TITLE V—MILITARY PERSONNEL POLICY

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Subtitle D—Decorations, Awards, and Commendations

SEC. 531. STUDY OF NEW DECORATIONS FOR INJURY OR DEATH IN LINE OF DUTY.

(a) STUDY OF NEED AND CRITERIA FOR NEW DECORATION.—(1) The Secretary of Defense shall carry out a study of the need for, and the the appropriate criteria for, two possible new decorations.

(2) The first such decoration would, if implemented, be awarded to members of the Armed Forces who, while serving under competent authority in any capacity with the Armed Forces, are killed or injured in the line of duty as a result of noncombat circumstances occurring—

(A) as a result of an international terrorist attack against the United States or a foreign nation friendly to the United States;

(B) while engaged in, training for, or traveling to or from a peacetime or contingency operation; or

(C) while engaged in, training for, or traveling to or from service outside the territory of the United States as part of a peacekeeping force.

(3) The second such decoration would, if implemented, be awarded to civilian nationals of the United States who, while serving under competent authority in any capacity with the Armed Forces, are killed or injured in the line of duty under circumstances which, if they were members of the Armed Forces, would qualify them for award of the Purple Heart or the medal described in paragraph (2).

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TITLE X—GENERAL PROVISIONS

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Subtitle C—Counter-Drug Activities and Other Assistance for Civilian Law Enforcement

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SEC. 1023. DEPARTMENT OF DEFENSE COUNTER-DRUG ACTIVITIES IN TRANSIT ZONE.

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(d) RESULTING AVAILABILITY OF FUNDS FOR COUNTERPROLIFERATION AND COUNTERTERRORISM ACTIVITIES.—(1) In light of subsection (c), of the amount authorized to be appropriated pursuant to section 301(5) for the Special Operations Command, $4,500,000 shall be available for the purpose of increased training and related operations in support of the activities of the Special Operations Command regarding counterproliferation of weapons of mass destruction and counterterrorism.

(2) The amount made available under this subsection is in addition to other funds authorized to be appropriated under section 301(5) for the Special Operations Command for such purpose.

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TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

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SEC. 1306. COOPERATIVE COUNTER PROLIFERATION PROGRAM.

(a) IN GENERAL.—Of the amount authorized to be appropriated in section 1302 (other than the amounts authorized to be appropriated in subsections (a)(1) and (a)(2) of that section) and subject to the limitations in that section and subsection (b), the Secretary of Defense may provide a country of the former Soviet Union with emergency assistance for removing or obtaining from that country—

(1) weapons of mass destruction; or

(2) materials, equipment, or technology related to the development or delivery of weapons of mass destruction.

(b) CERTIFICATION REQUIRED.—(1) The Secretary may not provide assistance under subsection (a) until 15 days after the date that the Secretary submits to the congressional defense committees a certification in writing that the weapons, materials, equipment, or technology described in that subsection meet each of the following requirements:

(A) The weapons, materials, equipment, or technology are at risk of being sold or otherwise transferred to a restricted foreign state or entity.

(B) The transfer of the weapons, materials, equipment, or technology would pose a significant near-term threat to the national security interests of the United States or would significantly advance a foreign country's weapon program that threatens the national security interests of the United States.

(C) Other options for securing or otherwise preventing the transfer of the weapons, materials, equipment, or technology have been considered and rejected as ineffective or inadequate.

(2) The 15-day notice requirement in paragraph (1) may be waived if the Secretary determines that compliance with the re-

quirement would compromise the national security interests of the United States. In such case, the Secretary shall promptly notify the congressional defense committees of the circumstances regarding such determination in advance of providing assistance under subsection (a) and shall submit the certification required not later than 30 days after providing such assistance.

(c) CONTENT OF CERTIFICATIONS.—Each certification required under subsection (b) shall contain information on the following with respect to the assistance being provided:

(1) The specific assistance provided and the purposes for which the assistance is being provided.

(2) The sources of funds for the assistance.

(3) Whether any assistance is being provided by any other Federal department or agency.

(4) The options considered and rejected for preventing the transfer of the weapons, materials, equipment, or technology, as described in subsection (b)(1)(C).

(5) Whether funding was requested by the Secretary from other Federal departments or agencies.

(6) Any additional information that the Secretary determines is relevant to the assistance being provided.

(d) ADDITIONAL SOURCES OF FUNDING.—The Secretary may request assistance and accept funds from other Federal departments or agencies in carrying out this section.

(e) DEFINITIONS.—In this section:

(1) The term "restricted foreign state or entity", with respect to weapons, materials, equipment, or technology covered by a certification or notification of the Secretary of Defense under subsection (b), means—

(A) any foreign country the government of which has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371); or

(B) any foreign state or entity that the Secretary of Defense determines would constitute a military threat to the United States, its allies, or interests, if that foreign state or entity were to possess the weapons, materials, equipment, or technology.

(2) The term "weapons of mass destruction" has the meaning given that term in section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 50 U.S.C. 2302(1)).

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TITLE XIV—DOMESTIC PREPAREDNESS FOR DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION

Sec. 1401. Short title.
Sec. 1402. Domestic preparedness for response to threats of terrorist use of weapons of mass destruction.
Sec. 1403. Report on domestic emergency preparedness.
Sec. 1404. Threat and risk assessments.
Sec. 1405. Advisory panel to assess domestic response capabilities for terrorism involving weapons of mass destruction.

SEC. 1401.[1] SHORT TITLE.

This title may be cited as the "Defense Against Weapons of Mass Destruction Act of 1998".

SEC. 1402.[1] DOMESTIC PREPAREDNESS FOR RESPONSE TO THREATS OF TERRORIST USE OF WEAPONS OF MASS DESTRUCTION.

(a) ENHANCED RESPONSE CAPABILITY.—In light of the continuing potential for terrorist use of weapons of mass destruction against the United States and the need to develop a more fully coordinated response to that threat on the part of Federal, State, and local agencies, the President shall act to increase the effectiveness at the Federal, State, and local level of the domestic emergency preparedness program for response to terrorist incidents involving weapons of mass destruction by utilizing the President's existing authorities to develop an integrated program that builds upon the program established under the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2714; 50 U.S.C. 2301 et seq.).

(b) REPORT.—Not later than January 31, 1999, the President shall submit to Congress a report containing information on the actions taken at the Federal, State, and local level to develop an integrated program to prevent and respond to terrorist incidents involving weapons of mass destruction.

SEC. 1403.[2] REPORT ON DOMESTIC EMERGENCY PREPAREDNESS.

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SEC. 1404.[1] THREAT AND RISK ASSESSMENTS.

(a) REQUIREMENT TO DEVELOP METHODOLOGIES.—The Attorney General, in consultation with the Director of the Federal Bureau of Investigation and representatives of appropriate Federal, State, and local agencies, shall develop and test methodologies for assessing the threat and risk of terrorist employment of weapons of mass destruction against cities and other local areas. The results of the tests may be used to determine the training and equipment requirements under the program developed under section 1402. The methodologies required by this subsection shall be developed using cities or local areas selected by the Attorney General, acting in consultation with the Director of the Federal Bureau of Investigation and appropriate representatives of Federal, State, and local agencies.

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[1] 50 U.S.C. 2301 note.
[2] 50 USC 2301 note. Sec. 1403 amended sec. 1051 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1889; 31 U.S.C. 1113 note).

(b) REQUIRED COMPLETION DATE.—The requirements in subsection (a) shall be completed not later than 1 year after the date of the enactment of this Act.

SEC. 1405.[1] ADVISORY PANEL TO ASSESS DOMESTIC RESPONSE CAPABILITIES FOR TERRORISM INVOLVING WEAPONS OF MASS DESTRUCTION.

(a) REQUIREMENT FOR PANEL.—The Secretary of Defense, in consultation with the Attorney General, the Secretary of Energy, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency, shall enter into a contract with a federally funded research and development center to establish a panel to assess the capabilities for domestic response to terrorism involving weapons of mass destruction.

(b) COMPOSITION OF PANEL; SELECTION.—(1) The panel shall be composed of members who shall be private citizens of the United States with knowledge and expertise in emergency response matters.

(2) Members of the panel shall be selected by the federally funded research and development center in accordance with the terms of the contract established pursuant to subsection (a).

(c) PROCEDURES FOR PANEL.—The federally funded research and development center shall be responsible for establishing appropriate procedures for the panel, including procedures for selection of a panel chairman.

(d) DUTIES OF PANEL.—The panel shall—

(1) assess Federal agency efforts to enhance domestic preparedness for incidents involving weapons of mass destruction;

(2) assess the progress of Federal training programs for local emergency responses to incidents involving weapons of mass destruction;

(3) assess deficiencies in programs for response to incidents involving weapons of mass destruction, including a review of unfunded communications, equipment, and planning requirements, and the needs of maritime regions;

(4) recommend strategies for ensuring effective coordination with respect to Federal agency weapons of mass destruction response efforts, and for ensuring fully effective local response capabilities for weapons of mass destruction incidents; and

(5) assess the appropriate roles of State and local government in funding effective local response capabilities.

(e) DEADLINE TO ENTER INTO CONTRACT.—The Secretary of Defense shall enter into the contract required under subsection (a) not later than 60 days after the date of the enactment of this Act.

(f) DEADLINE FOR SELECTION OF PANEL MEMBERS.—Selection of panel members shall be made not later than 30 days after the date on which the Secretary enters into the contract required by subsection (a).

(g) INITIAL MEETING OF THE PANEL.—The panel shall conduct its first meeting not later than 30 days after the date that all the selections to the panel have been made.

(h) REPORTS.—(1) Not later than 6 months after the date of the first meeting of the panel, the panel shall submit to the President and to Congress an initial report setting forth its findings, conclusions, and recommendations for improving Federal, State, and local

domestic emergency preparedness to respond to incidents involving weapons of mass destruction.

(2) Not later than December 15 of each year, beginning in 1999 and ending in 2001, the panel shall submit to the President and to the Congress a report setting forth its findings, conclusions, and recommendations for improving Federal, State, and local domestic emergency preparedness to respond to incidents involving weapons of mass destruction.

(i) COOPERATION OF OTHER AGENCIES.—(1) The panel may secure directly from the Department of Defense, the Department of Energy, the Department of Health and Human Services, the Department of Justice, and the Federal Emergency Management Agency, or any other Federal department or agency information that the panel considers necessary for the panel to carry out its duties.

(2) The Attorney General, the Secretary of Defense, the Secretary of Energy, the Secretary of Health and Human Services, the Director of the Federal Emergency Management Agency, and any other official of the United States shall provide the panel with full and timely cooperation in carrying out its duties under this section.

(j) FUNDING.—The Secretary of Defense shall provide the funds necessary for the panel to carry out its duties from the funds available to the Department of Defense for weapons of mass destruction preparedness initiatives.

(k) COMPENSATION OF PANEL MEMBERS.—(1) Members of the panel shall serve without pay by reason of their work on the panel.

(2) Members of the panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter 57 of title 5, United States Code, while away from their homes or regular place of business in performance of services for the panel.

(l) TERMINATION OF THE PANEL.—The panel shall terminate three years after the date of the appointment of the member selected as chairman of the panel.

(m) DEFINITION.—In this section, the term "weapon of mass destruction" has the meaning given that term in section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)).

3. Department of Defense Appropriations Act, 1999

Partial text of Public Law 105–262 [H.R. 4103], 112 Stat. 2279 at 2335, approved October 17, 1998

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, 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 VIII—GENERAL PROVISIONS

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SEC. 8129. Notwithstanding any other provision of law, the Secretary of Defense shall obligate the funds provided for Counterterror Technical Support in the Department of Defense Appropriations Act, 1998 (under title IV of Public Law 105–56) for the projects and in the amounts provided for in House Report 105–265 of the House of Representatives, One Hundred Fifth Congress, First Session: *Provided,* That the funds available for the Pulsed Fast Neutron Analysis Project should be executed through cooperation with the Office of National Drug Control Policy.

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4. National Defense Authorization Act for Fiscal Year 1998

Partial text of Public Law 105–85 [H.R. 1119], 112 Stat. 1920, 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 American in Congress assembled,

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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TITLE III—OPERATION AND MAINTENANCE

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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: [1]

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TITLE X—GENERAL PROVISIONS

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Subtitle E—Matters Relating to Terrorism

SEC. 1051.[2] 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

[1] Sec. 382 added a new Sec. 182 to 10 U.S.C. See D.1, this section for text.
[2] 31 U.S.C. 1113 note.

(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.

(c)[3] ANNEX ON DOMESTIC EMERGENCY PREPAREDNESS PROGRAM.—As part of the annual report submitted to Congress under subsection (b), the President shall include an annex which provides the following information on the domestic emergency preparedness program for response to terrorist incidents involving weapons of mass destruction (as established under section 1402 of the Defense Against Weapons of Mass Destruction Act of 1998):

(1) Information on program responsibilities for each participating Federal department, agency, and bureau.

(2) A summary of program activities performed during the preceding fiscal year for each participating Federal department, agency, and bureau.

(3) A summary of program obligations and expenditures during the preceding fiscal year for each participating Federal department, agency, and bureau.

(4) A summary of the program plan and budget for the current fiscal year for each participating Federal department, agency, and bureau.

(5) The program budget request for the following fiscal year for each participating Federal department, agency, and bureau.

(6) Recommendations for improving Federal, State, and local domestic emergency preparedness to respond to incidents involving weapons of mass destruction that have been made by the advisory panel to assess the capabilities of domestic response to terrorism involving weapons of mass destruction (as

[3] Subsec. (c) was added by sec. 1403 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2168; 50 U.S.C. 2301 note).

established under section 1405 of the Defense Against Weapons of Mass Destruction Act of 1998), and actions taken as a result of such recommendations.

(7) Additional program measures and legislative authority for which congressional action may be required.

SEC. 1052.[4] 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.

[4] 10 USC 113 note.

(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.

(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.

5. 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

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".

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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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6. National Defense Authorization Act for Fiscal Year 1995

Partial text of Public Law 103–337 [S. 2182], 108 Stat. 2663, approved October 5, 1994, as amended

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".

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TITLE XIII—MATTERS RELATING TO ALLIES AND OTHER NATIONS

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SUBTITLE C—MATTERS RELATING TO SPECIFIC COUNTRIES

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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.

(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.

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TITLE XV—ARMS CONTROL MATTERS

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SEC. 1504. AMOUNTS FOR COUNTERPROLIFERATION ACTIVITIES.

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(e) USE OF FUNDS FOR TECHNOLOGY DEVELOPMENT.—(1) Of the funds authorized to be appropriated by section 201(4) for counterproliferation technology projects—

(A) up to $5,000,000 shall be available for a program to detect, locate, and disarm weapons of mass destruction that are hidden by a hostile state or terrorist or terrorist group in a confined area outside the United States; and

(B) * * *

(2) The Secretary of Defense shall make funds available for the program referred to in paragraph (1)(A) in a manner that, to the maximum extent practicable, ensures the effective use of existing resources of the national weapons laboratories.

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7. 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, as amended

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".

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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.[1] 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

[1] 10 U.S.C. 2327 note.

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 public 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 XVII—CHEMICAL AND BIOLOGICAL WEAPONS DEFENSE

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SEC. 1704.[2] 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.

[2] 50 U.S.C. 1522 note.

8. 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, as amended

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".

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TITLE XIV—DEMILITARIZATION OF THE FORMER SOVIET UNION

Subtitle A—Short Title

SEC. 1401.[1] SHORT TITLE.

This title may be cited as the "Former Soviet Union Demilitarization Act of 1992".

Subtitle B—Findings and Program Authority

SEC. 1411.[2] 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 conventional 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

[1] 22 U.S.C. 5901 note.
[2] 22 U.S.C. 5901.

(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.[3] AUTHORITY FOR PROGRAMS TO FACILITATE DEMILITARIZATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized, 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

(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, 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;

[3] 22 U.S.C. 5902.

(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.

* * * * * * *

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 funding 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. 1505.[4] INTERNATIONAL NONPROLIFERATION INITIATIVE.

(a) ASSISTANCE FOR INTERNATIONAL NONPROLIFERATION ACTIVITIES.—Subject to the limitations and requirements provided in this section, 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 that are designed to ensure more effective safeguards against proliferation and more effective verification of compliance with international agreements on nonproliferation.

(2) Activities of the Department of Defense 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.

(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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[4] 22 U.S.C. 5859a.

TITLE XVI—IRAN-IRAQ ARMS NON-PROLIFERATION ACT OF 1992[5]

SEC. 1601. SHORT TITLE.

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

* * * * * * *

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 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 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.

(3) SUSPENSION OF CODEVELOPMENT OR COPRODUCTION AGREEMENTS.—The United States shall suspend, for a period of one year, compliance with its obligations under any memo-

[5] 50 U.S.C. 1701 note.

randum 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.

9. 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

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 XIII—GENERAL PROVISIONS

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PART F—MISCELLANEOUS

* * * * * * *

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.

* * * * * * *

10. Department of Defense Authorization Act, 1986

Partial text of Public Law 99–145 [S. 1160], 99 Stat. 583, approved November 8, 1985, as amended

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 XIV—GENERAL PROVISIONS

* * * * * * *

PART E—MISCELLANEOUS PROVISIONS

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.

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11. Foreign Intelligence Surveillance [1]

Title 50, United States Code—War and National Defense

* * * * * * *

CHAPTER 15—NATIONAL SECURITY

SUBCHAPTER I—COORDINATION FOR NATIONAL SECURITY

§ 402. National Security Council

* * * * * * *

(i) [2] Committee on Transnational Threats

(1) There is established within the National Security Council a committee to be known as the Committee on Transnational Threats (in this subsection referred to as the "Committee").

(2) The Committee shall include the following members:

(A) The Director of Central Intelligence.

(B) The Secretary of State.

(C) The Secretary of Defense.

(D) The Attorney General.

(E) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

(F) Such other members as the President may designate.

(3) The function of the Committee shall be to coordinate and direct the activities of the United States Government relating to combatting transnational threats.

(4) In carrying out its function, the Committee shall—

(A) identify transnational threats;

(B) develop strategies to enable the United States Government to respond to transnational threats identified under subparagraph (A);

(C) monitor implementation of such strategies;

(D) make recommendations as to appropriate responses to specific transnational threats;

(E) assist in the resolution of operational and policy differences among Federal departments and agencies in their responses to transnational threats;

(F) develop policies and procedures to ensure the effective sharing of information about transnational threats among Federal departments and agencies, including law enforcement agencies and the elements of the intelligence community; and

(G) develop guidelines to enhance and improve the coordination of activities of Federal law enforcement agencies and ele-

[1] Enacted on October 25, 1978, in sec. 101 and following of the Foreign Intelligence Surveillance Act of 1978 (Public Law 95–511; 92 Stat. 1783).

[2] Added by sec. 804 of the Intelligence Authorization Act for Fiscal Year 1997 (Public Law 104–293; 110 Stat. 3476).

ments of the intelligence community outside the United States with respect to transnational threats.

(5) For purposes of this subsection, the term "transnational threat" means the following:

(A) Any transnational activity (including international terrorism, narcotics trafficking, the proliferation of weapons of mass destruction and the delivery systems for such weapons, and organized crime) that threatens the national security of the United States.

(B) Any individual or group that engages in an activity referred to in subparagraph (A).

* * * * * * *

CHAPTER 36—FOREIGN INTELLIGENCE SURVEILLANCE

SUBCHAPTER I—ELECTRONIC SURVEILLANCE

§ 1801. Definitions

As used in this subchapter:

(a) "Foreign power" means—

* * * * * * *

(4) a group engaged in international terrorism [3] or activities in preparation therefor;

* * * * * * *

(b) "Agent of a foreign power" means—

(1) * * *

(2) any person who—

(A) knowingly engages in clandestine intelligence gathering activities for or on behalf of a foreign power, which activities involve or may involve a violation of the criminal statutes of the United States;

(B) pursuant to the direction of an intelligence service or network of a foreign power, knowingly engages in any other clandestine intelligence activities for or on behalf of such foreign power, which activities involve or are about to involve a violation of the criminal statutes of the United States;

(C) knowingly engages in sabotage or international terrorism, or activities that are in preparation therefore, or on behalf of a foreign power, or

(D) knowingly aids or abets any person in the conduct of activities described in subparagraph (A), (B), or (C) or knowingly conspires with any person to engage in activities described in subparagraph (A),(B), or (C).

(c) "International terrorism" means [3] activities that—

(1) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any State;

[3] Note use of the term "terrorism" as defined in sec. 1801(c) for purposes of this chapter. The term "terrorism" appears in the chapter in sec. 1801(a)(4).

(2) appear to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to effect the conduct of a government by assassination or kidnapping; and

(3) occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.

(d) * * *

(e) "Foreign intelligence information" means—

(1) information that relates to, and if concerning a United States person is necessary to, the ability of the United States to protect against—

(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(2) information with respect to a foreign power or foreign territory that relates to, and if concerning a United States person is necessary to—

(A) the national defense or the security of the United States; or

(B) the conduct of the foreign affairs of the United States.

* * * * * * *

§ 1841.[4] Definitions

As used in this subchapter:

(1) The terms "foreign power", "agent of a foreign power", "international terrorism", "foreign intelligence information", "Attorney General", "United States person", "United States", "person", and "State" shall have the same meanings as in section 1801 of this title.

(2) The terms "pen register" and "trap and trace device" have the meanings given such terms in section 3127 of title 18.

(3) The term "aggrieved person" means any person—

(A) whose telephone line was subject to the installation or use of a pen register or trap and trace device authorized by subchapter IV of this chapter; or

(B) whose communication instrument or device was subject to the use of a pen register or trap and trace device authorized by subchapter IV to capture incoming electronic or other communications impulses.

[4] Added by sec. 601 of the Intelligence Authorization Act for Fiscal Year 1999 (Public Law 105–272; 112 Stat. 2404).

§ 1842.[4] Pen registers and trap and trace devices for foreign intelligence and international terrorism investigations

(a)(1) Notwithstanding any other provision of law, the Attorney General or a designated attorney for the Government may make an application for an order or an extension of an order authorizing or approving the installation and use of a pen register or trap and trace device for any investigation to gather foreign intelligence information or information concerning international terrorism which is being conducted by the Federal Bureau of Investigation under such guidelines as the Attorney General approves pursuant to Executive Order No. 12333, or a successor order.

(2) The authority under paragraph (1) is in addition to the authorityunder subchapter I of this chapter to conduct the electronic surveillance referred to in that paragraph.

(b) Each application under this section shall be in writing under oath or affirmation to—

(1) a judge of the court established by section 1803 of this title; or

(2) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications for and grant orders approving the installation and use of a pen register or trap and trace device on behalf of a judge of that court.

(c) Each application under this section shall require the approval of the Attorney General, or a designated attorney for the Government, and shall include—

(1) the identity of the Federal officer seeking to use the pen register or trap and trace device covered by the application;

(2) a certification by the applicant that the information likely to be obtained is relevant to an ongoing foreign intelligence or international terrorism investigation being conducted by the Federal Bureau of Investigation under guidelines approved by the Attorney General; and

(3) information which demonstrates that there is reason to believe that the telephone line to which the pen register or trap and trace device is to be attached, or the communication instrument or device to be covered by the pen register or trap and trace device, has been or is about to be used in communication with—

(A) an individual who is engaging or has engaged in international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal laws of the United States; or

(B) a foreign power or agent of a foreign power under circumstances giving reason to believe that the communication concerns or concerned international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal laws of the United States.

(d)(1) Upon an application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the installation and use of a pen register or trap and

trace device if the judge finds that the application satisfies the requirements of this section.

(2) An order issued under this section—

(A) shall specify—

(i) the identity, if known, of the person who is the subject of the foreign intelligence or international terrorism investigation;

(ii) in the case of an application for the installation and use of a pen register or trap and trace device with respect to a telephone line—

(I) the identity, if known, of the person to whom is leased or in whose name the telephone line is listed; and

(II) the number and, if known, physical location of the telephone line; and

(iii) in the case of an application for the use of a pen register or trap and trace device with respect to a communication instrument or device not covered by clause (ii)—

(I) the identity, if known, of the person who owns or leases the instrument or device or in whose name the instrument or device is listed; and

(II) the number of the instrument or device; and

(B) shall direct that—

(i) upon request of the applicant, the provider of a wire or electronic communication service, landlord, custodian, or other person shall furnish any information, facilities, or technical assistance necessary to accomplish the installation and operation of the pen register or trap and trace device in such a manner as will protect its secrecy and produce a minimum amount of interference with the services that such provider, landlord, custodian, or other person is providing the person concerned;

(ii) such provider, landlord, custodian, or other person—

(I) shall not disclose the existence of the investigation or of the pen register or trap and trace device to any person unless or until ordered by the court; and

(II) shall maintain, under security procedures approved by the Attorney General and the Director of Central Intelligence pursuant to section 1805(b)(2)(C) of this title, any records concerning the pen register or trap and trace device or the aid furnished; and

(iii) the applicant shall compensate such provider, landlord, custodian, or other person for reasonable expenses incurred by such provider, landlord, custodian, or other person in providing such information, facilities, or technical assistance.

(e) An order issued under this section shall authorize the installation and use of a pen register or trap and trace device for a period not to exceed 90 days. Extensions of such an order may be granted, but only upon an application for an order under this section and upon the judicial finding required by subsection (d). The period of extension shall be for a period not to exceed 90 days.

(f) No cause of action shall lie in any court against any provider of a wire or electronic communication service, landlord, custodian,

or other person (including any officer, employee, agent, or other specified person thereof) that furnishes any information, facilities, or technical assistance under subsection (d) in accordance with the terms of a court under this section.

(g) Unless otherwise ordered by the judge, the results of a pen register or trap and trace device shall be furnished at reasonable intervals during regular business hours for the duration of the order to the authorized Government official or officials.

§ 1843.[4] Authorization during emergencies

(a) Notwithstanding any other provision of this subchapter, when the Attorney General makes a determination described in subsection (b), the Attorney General may authorize the installation and use of a pen register or trap and trace device on an emergency basis to gather foreign intelligence information or information concerning international terrorism if—

(1) a judge referred to in section 1842(b) of this title is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to install and use the pen register or trap and trace device, as the case may be, on an emergency basis; and

(2) an application in accordance with section 1842(a)(1) of this title is made to such judge as soon as practicable, but not more than 48 hours, after the Attorney General authorizes the installation and use of the pen register or trap and trace device, as the case may be, under this section.

(b) A determination under this subsection is a reasonable determination by the Attorney General that—

(1) an emergency requires the installation and use of a pen register or trap and trace device to obtain foreign intelligence information or information concerning international terrorism before an order authorizing the installation and use of the pen register or trap and trace device, as the case may be, can with due diligence be obtained under section 1842 of this title; and

(2) the factual basis for issuance of an order under such section 1842(c) of this title to approve the installation and use of the pen register or trap and trace device, as the case may be, exists.

(c)(1) In the absence of an order applied for under subsection (a)(2) approving the installation and use of a pen register or trap and trace device authorized under this section, the installation and use of the pen register or trap and trace device, as the case may be, shall terminate at the earlier of—

(A) when the information sought is obtained;

(B) when the application for the order is denied under section 1842 of this title; or

(C) 48 hours after the time of the authorization by the Attorney General.

(2) In the event that an application for an order applied for under subsection (a)(2) is denied, or in any other case where the installation and use of a pen register or trap and trace device under this section is terminated and no order under section 1842(b)(2) of this title is issued approving the installation and use of the pen register or trap and trace device, as the case may be,

no information obtained or evidence derived from the use of the pen register or trap and trace device, as the case may be, shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from the use of the pen register or trap and trace device, as the case may be, shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

§ 1844.[4] Authorization during time of war

Notwithstanding any other provision of law, the President, through the Attorney General, may authorize the use of a pen register or trap and trace device without a court order under this subchapter to acquire foreign intelligence information for a period not to exceed 15 calendar days following a declaration of war by Congress.

§ 1845.[4] Use of information

(a)(1) Information acquired from the use of a pen register or trap and trace device installed pursuant to this subchapter concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the provisions of this section.

(2) No information acquired from a pen register or trap and trace device installed and used pursuant to this subchapter may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) No information acquired pursuant to this subchapter shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

(c) Whenever the United States intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States against an aggrieved person any information obtained or derived from the use of a pen register or trap and trace device pursuant to this subchapter, the United States shall, before the trial, hearing, or the other proceeding or at a reasonable time before an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the United States intends to so disclose or so use such information.

(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the State or political subdivision thereof against an aggrieved person any information

obtained or derived from the use of a pen register or trap and trace device pursuant to this subchapter, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

(e)(1) Any aggrieved person against whom evidence obtained or derived from the use of a pen register or trap and trace device is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, or a State or political subdivision thereof, may move to suppress the evidence obtained or derived from the use of the pen register or trap and trace device, as the case may be, on the grounds that—

(A) the information was unlawfully acquired; or

(B) the use of the pen register or trap and trace device, as the case may be, was not made in conformity with an order of authorization or approval under this subchapter.

(2) A motion under paragraph (1) shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the aggrieved person concerned was not aware of the grounds of the motion.

(f)(1) Whenever a court or other authority is notified pursuant to subsection (c) or (d), whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to the use of a pen register or trap and trace device authorized by this subchapter IV of this chapter or to discover, obtain, or suppress evidence or information obtained or derived from the use of a pen register or trap and trace device authorized by subchapter IV of the chapter, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority shall, notwithstanding any other provision of law and if the Attorney General files an affidavit under oath that disclosure or any adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the use of the pen register or trap and trace device, as the case may be, as may be necessary to determine whether the use of the pen register or trap and trace device, as the case may be, was lawfully authorized and conducted.

(2) In making a determination under paragraph (1), the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the use of the pen register or trap and trace device, as the case may be, or may require the Attorney General to provide to the aggrieved person a summary of such materials, only where such disclosure is necessary to make an accurate determination of the legality of the use of the pen register or trap and trace device, as the case may be.

(g)(1) If the United States district court determines pursuant to subsection (f) that the use of a pen register or trap and trace device was not lawfully authorized or conducted, the court may, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from the use of the pen register or trap and trace device, as the case may be, or otherwise grant the motion of the aggrieved person.

(2) If the court determines that the use of the pen register or trap and trace device, as the case may be, was lawfully authorized or conducted, it may deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(h) Orders granting motions or requests under subsection (g), decisions under this section that the use of a pen register or trap and trace device was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to the installation and use of a pen register or trap and trace device shall be final orders and binding upon all courts of the United States and the several States except a United States Court of Appeals or the Supreme Court.

§ 1846.[4] Congressional oversight

(a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all uses of pen registers and trap and trace devices pursuant to this subchapter.

(b) On a semiannual basis, the Attorney General shall also provide to the committees referred to in subsection (a) and to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding 6-month period—

(1) the total number of applications made for orders approving the use of pen registers or trap and trace devices under this subchapter; and

(2) the total number of such orders either granted, modified, or denied.

SUBCHAPTER IV—ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES

§ 1861.[5] Definitions

As used in this subchapter:

(1) The terms "foreign power", "agent of a foreign power", "foreign intelligence information", "international terrorism", and "Attorney General" shall have the same meanings as in section 1801 of this title.

(2) The term "common carrier" means any person or entity transporting people or property by land, rail, water, or air for compensation.

(3) The term "physical storage facility" means any business or entity that provides space for the storage of goods or mate-

[5] Added by sec. 602 of the Intelligence Authorization Act for Fiscal Year 1999 (Public Law 105–272; 112 Stat. 2410).

rials, or services related to the storage of goods or materials, to the public or any segment thereof.

(4) The term "public accommodation facility" means any inn, hotel, motel, or other establishment that provides lodging to transient guests.

(5) The term "vehicle rental facility" means any person or entity that provides vehicles for rent, lease, loan, or other similar use to the public or any segment thereof.

§ 1862.[5] Access to certain business records for foreign intelligence andinternational terrorism investigations

(a) The Director of the Federal Bureau of Investigation or a designee of the Director (whose rank shall be no lower than Assistant Special Agent in Charge) may make an application for an order authorizing a common carrier, public accommodation facility, physical storage facility, or vehicle rental facility to release records in its possession for an investigation to gather foreign intelligence information or an investigation concerning international terrorism which investigation is being conducted by the Federal Bureau of Investigation under such guidelines as the Attorney General approves pursuant to Executive Order No. 12333, or a successor order.

(b) Each application under this section—

(1) shall be made to—

(A) a judge of the court established by section 1803(a) of this title; or

(B) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications and grant orders for the release of records under this section on behalf of a judge of that court; and

(2) shall specify that—

(A) the records concerned are sought for an investigation described in subsection (a); and

(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power.

(c)(1) Upon application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the release of records if the judge finds that the application satisfies the requirements of this section.

(2) An order under this subsection shall not disclose that it is issued for purposes of an investigation described in sub-section (a).

(d)(1) Any common carrier, public accommodation facility, physical storage facility, or vehicle rental facility shall comply with an order under subsection (c).

(2) No common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, or officer, employee, or agent thereof, shall disclose to any person (other than those officers, agents, or employees of such common carrier, public accommodation facility, physical storage facility, or vehicle rental facility necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section) that the Fed-

eral Bureau of Investigation has sought or obtained records pursuant to an order under this section.

§ 1863.[5] Congressional oversight

(a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests for records under this subchapter.

(b) On a semiannual basis, the Attorney General shall provide to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding 6-month period—

(1) the total number of applications made for orders approving requests for records under this subchapter; and

(2) the total number of such orders either granted, modified, or denied.

12. Intelligence Authorization Act for Fiscal Year 1996

Partial text of Public Law 104–93 [H.R. 1655], 109 Stat. 961, approved January 6, 1996

AN ACT To authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, 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; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1996".

(b) TABLE OF CONTENTS.—* * *

* * * * * * *

TITLE III—GENERAL PROVISIONS

* * * * * * *

SEC. 310. ASSISTANCE TO FOREIGN COUNTRIES.

Notwithstanding any other provision of law, funds authorized to be appropriated by this Act may be used to provide assistance to a foreign country for counterterrorism efforts if—

(1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and

(2) the Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives are notified not later than 15 days prior to the provision of such assistance.

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E. TRADE AND FINANCIAL LEGISLATION

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1. Trade Act of 1974, as amended

Partial text of Public Law 93–618 [H.R. 10710], 88 Stat. 1978, approved January 3, 1975, as amended

AN ACT To promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate fair and free competition between the United States and foreign nations, to foster the economic growth of, and full employment in, 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, with the following table of contents, may be cited as the "Trade Act of 1974".[1]

* * * * * * *

TITLE V—GENERALIZED SYSTEM OF PREFERENCES[2]

* * * * * * *

SEC. 502.[3] DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES.

(a) AUTHORITY TO DESIGNATE COUNTRIES.—

(1) BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate countries as beneficiary developing countries for purposes of this title.

(2) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate any beneficiary developing country as a least-developed beneficiary developing country for purposes of this title, based on the considerations in section 501 and subsection (c) of this section.

(b) COUNTRIES INELIGIBLE FOR DESIGNATION.—

(1) SPECIFIC COUNTRIES.—The following countries may not be designated as beneficiary developing countries for purposes of this title:

(A) Australia.
(B) Canada.
(C) European Union member states.
(D) Iceland.
(E) Japan.
(F) Monaco.
(G) New Zealand.
(H) Norway.
(I) Switzerland.

(2) OTHER BASES FOR INELIGIBILITY.—The President shall not designate any country a beneficiary developing country under this title if any of the following applies:

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[1] 19 U.S.C. 2101.

[2] Sec. 1952(a) of the GSP Renewal Act of 1996 (in subtitle J of title I of the Small Business Job Protection Act of 1996; Public Law 104–188; 110 Stat. 1917) amended and restated title V in its entirety, applicable after October 1, 1996.

[3] 19 U.S.C. 2462.

(A) Such country is a Communist country, unless—

(i) the products of such country receive nondiscriminatory treatment,

(ii) such country is a WTO Member (as such term is defined in section 2(10) of the Uruguay Round Agreements Act) (19 U.S.C. 3501(10)) and a member of the International Monetary Fund, and

(iii) such country is not dominated or controlled by international communism.

(B) Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

(i) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and

(ii) to cause serious disruption of the world economy.

(C) Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

(D)(i) Such country—

(I) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

(II) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

(III) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless clause (ii) applies.

(ii) This clause applies if the President determines that—

(I) prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to in clause (i),

(II) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country described in clause (i) is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(III) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum,

and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

(E) Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

(F)[4] Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism or the Secretary of State makes a determination with respect to such country under section 6(j)(1)(A) of the Export Administration Act of 1979.

(G) Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

Subparagraphs (D), (E), (F), and (G) shall not prevent the designation of any country as a beneficiary developing country under this title if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with the reasons therefor.

(c) FACTORS AFFECTING COUNTRY DESIGNATION.—In determining whether to designate any country as a beneficiary developing country under this title, the President shall take into account—

(1) an expression by such country of its desire to be so designated;

(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

(3) whether or not other major developed countries are extending generalized preferential tariff treatment to such country;

(4) the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

[4] Sec. 35(a) of Public Law 104–295 (110 Stat. 3538) amended and restated subpara. (F), effective October 1, 1996. It formerly read as follows: "Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism.".

(5) the extent to which such country is providing adequate and effective protection of intellectual property rights;

(6) the extent to which such country has taken action to—

(A) reduce trade distorting investment practices and policies (including export performance requirements); and

(B) reduce or eliminate barriers to trade in services; and

(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.

(d) WITHDRAWAL, SUSPENSION, OR LIMITATION OF COUNTRY DESIGNATION.—

(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any country. In taking any action under this subsection, the President shall consider the factors set forth in section 501 and subsection (c) of this section.

(2) CHANGED CIRCUMSTANCES.—The President shall, after complying with the requirements of subsection (f)(2), withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, the President determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under subsection (b)(2). Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order or Presidential proclamation revoking the designation of such country under this title.

(3) ADVICE TO CONGRESS.—The President shall, as necessary, advise the Congress on the application of section 501 and subsection (c) of this section, and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in subsection (c).

(e) MANDATORY GRADUATION OF BENEFICIARY DEVELOPING COUNTRIES.—If the President determines that a beneficiary developing country has become a "high income" country, as defined by the official statistics of the International Bank for Reconstruction and Development, then the President shall terminate the designation of such country as a beneficiary developing country for purposes of this title, effective on January 1 of the second year following the year in which such determination is made.

(f) CONGRESSIONAL NOTIFICATION.—

(1) NOTIFICATION OF DESIGNATION.—

(A) IN GENERAL.—Before the President designates any country as a beneficiary developing country under this title, the President shall notify the Congress of the President's intention to make such designation, together with the considerations entering into such decision.

(B) DESIGNATION AS LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—At least 60 days before the President designates any country as a least-developed beneficiary developing country, the President shall notify the Congress of the President's intention to make such designation.

(2) NOTIFICATION OF TERMINATION.—If the President has designated any country as a beneficiary developing country under this title, the President shall not terminate such designation unless, at least 60 days before such termination, the President has notified the Congress and has notified such country of the President's intention to terminate such designation, together with the considerations entering into such decision.

* * * * * * *

2. Export Administration Act of 1979 [1]

Partial text of Public Law 96–72 [S. 737], 93 Stat. 503, approved September 29, 1979, as amended

NOTE.—The Export Administration Act of 1979 replaced the Export Administration Act of 1969, as amended, which expired on September 30, 1979. The Export Administration Act of 1979 was comprehensively amended by the Export Administration Amendments Act of 1985 [Public Law 99–64; 99 Stat. 120].

AN ACT To provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce.

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

SHORT TITLE

SECTION 1.[1] This Act may be cited as the "Export Administration Act of 1979".

* * * * * * *

DECLARATION OF POLICY

SEC. 3.[2] The Congress makes the following declarations:

* * * * * * *

(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make reasonable and prompt efforts to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before imposing export controls.

* * * * * * *

FOREIGN POLICY CONTROLS

SEC. 6.[3] (a) AUTHORITY.—(1) In order to carry out the policy set forth in paragraph (2)(B), (7), (8), or (13) of section 3 of this Act, the President may prohibit or curtail the exportation of any goods, technology, or other information subject to the jurisdiction of the

[1] 50 U.S.C. app. 2401 note.
[2] 50 U.S.C. app. 2402.
[3] 50 U.S.C. app. 2405.

United States or exported by any person subject to the jurisdiction of the United States, to the extent necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations. The authority granted by this subsection shall be exercised by the Secretary, in consultation with the Secretary of State, the Secretary of Defense, the Secretary of Agriculture, the Secretary of the Treasury, the United States Trade Representative, and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses issued by the Secretary.

(2) Any export control imposed under this section shall apply to any transaction or activity undertaken with the intent to evade that export control, even if that export control would not otherwise apply to that transaction or activity.

(3) Export controls maintained for foreign policy purposes shall expire on December 31, 1979, or one year after imposition, whichever is later, unless extended by the President in accordance with subsections (b) and (f). Any such extension and any subsequent extension shall not be for a period of more than a year.

(4) Whenever the Secretary denies any export license under this subsection, the Secretary shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this subsection, and the reasons for such denial, with reference to the criteria set forth in subsection (b) of this section. The Secretary shall also include in such notice what, if any, modifications in or restrictions on the goods or technology for which the license was sought would allow such export to be compatible with controls implemented under this section, or the Secretary shall indicate in such notice which officers and employees of the Department of Commerce who are familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restrictions, if appropriate.

(5) In accordance with the provisions of section 10 of this Act, the Secretary of State shall have the right to review any export license application under this section which the Secretary of State requests to review.

(6) Before imposing, expanding, or extending export controls under this section on exports to a country which can use goods, technology, or information available from foreign sources and so incur little or no economic costs as a result of the controls, the President should, through diplomatic means, employ alternatives to export controls which offer opportunities of distinguishing the United States from, and expressing the displeasure of the United States with, the specific actions of that country in response to which the controls are proposed. Such alternatives include private discussions with foreign leaders, public statements in situations where private diplomacy is unavailable or not effective, withdrawal of ambassadors, and reduction of the size of the diplomatic staff that the country involved is permitted to have in the United States.

* * * * * * *

(f) CONSULTATION WITH THE CONGRESS.—(1) The president may impose or expand export controls under this section, or extend such controls as required by subsection (a)(3) of this section, only after consultation with the Congress, including the Committee on For-

eign Affairs[4] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) The President may not impose, expand, or extend export controls under this section until the President has submitted to the Congress a report—

(A) specifying the purpose of the controls;

(B) specifying the determinations of the President (or, in the case of those export controls described in subsection (b)(2), the considerations of the President) with respect to each of the criteria set forth in subsection (b)(1), the bases for such determinations (or considerations), and any possible adverse foreign policy consequences of the controls;

(C) describing the nature, the subjects, and the results of, or the plans for, the consultation with industry pursuant to subsection (c) and with other countries pursuant to subsection (d);

(D) specifying the nature and results of any alternative means attempted under subsection (e), or the reasons for imposing, expanding, or extending the controls without attempting any such alternative means; and

(E) describing the availability from other countries of goods or technology comparable to the goods or technology subject to the proposed export controls, and describing the nature and results of the efforts made pursuant to subsection (h) to secure the cooperation of foreign governments in controlling the foreign availability of such comparable goods or technology.

Such report shall also indicate how such controls will further significantly the foreign policy of the United States or will further its declared international obligations.

(3) To the extent necessary to further the effectiveness of the export controls portions of a report required by paragraph (2) may be submitted to the Congress on a classified basis, and shall be subject to the provisions of section 12(c) of this Act.[5]

(4) In the case of export controls under this section which prohibit or curtail the export of any agricultural commodity, a report submitted pursuant to paragraph (2) shall be deemed to be the report required by section 7(g)(3)(A) of this Act.

(5) In addition to any written report required, under this section, the Secretary, not less frequently than annually, shall present in oral testimony before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs[6] of the House of Representatives a report on policies and actions taken by the Government to carry out the provisions of this section.

* * * * * * *

[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] Sec. 128(c) of Public Law 104–316 (110 Stat. 3841) struck out a sentence at this point that read as follows:"Each such report shall, at the same time it is submitted to the Congress, also be submitted to the General Accounting Office for the purpose of assessing the report's full compliance with the intent of this subsection.".

[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.

(j)[7] COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—(1) A validated license shall be required for the export of goods or technology to a country if the Secretary of State has made the following determinations:

(A) The government of such country has repeatedly provided support for acts of international terrorism.

(B) The export of such goods or technology could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism.

(2) The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs[6] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before issuing any validated license required by paragraph (1).

(3) Each determination of the Secretary of State under paragraph (1)(A), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1989, shall be published in the Federal Register.

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[7] In Department of State Public Notice 1878 of August 12, 1993, (58 F.R. 52523), the Secretary of State stated: "In accordance with section 6(j) of the Export Administration Act (50 U.S.C. App. 2405(j)), I hereby determine that Sudan is a country which has repeatedly provided support for acts of international terrorism. The list of 6(j) countries as of this time therefore includes Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.".

Sec. 4 of Public Law 101–222 (103 Stat. 1897) amended and restated sec. 6(j).

Title V of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (sec. 101(d) of Division A of Public Law 105–277; 112 Stat. 2681) provided the following:

"PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

"SEC. 528. (a) Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to enactment of this Act, shall not be made available to any country which the President determines—

"(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

"(2) otherwise supports international terrorism.

"(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least fifteen days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

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"PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

"SEC. 551. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 40(d) of the Arms Export Control Act or any other comparable provision of law. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

"(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

"(c) Whenever the waiver of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.

(4) A determination made by the Secretary of State under paragraph (1)(A) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Banking, Housing, and Urban Affairs and the chairman of the Committee on Foreign Relations of the Senate—

(A) before the proposed rescission would take effect, a report certifying that—

(i) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(ii) that government is not supporting acts of international terrorism; and

(iii) that government has provided assurances that it will not support acts of international terrorism in the future; or

(B) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

(i) the government concerned has not provided any support for international terrorism during the preceding 6–month period; and

(ii) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

(5)[8] The Secretary and the Secretary of State shall include in the notification required by paragraph (2)—

(A) a detailed description of the goods or services to be offered, including a brief description of the capabilities of any article for which a license to export is sought;

(B) the reasons why the foreign country or international organization to which the export or transfer is proposed to be made needs the goods or services which are the subject of such export or transfer and a description of the manner in which such country or organization intends to use such articles, services, or design and construction services;

(C) the reasons why the proposed export or transfer is in the national interest of the United States;

(D) an analysis of the impact of the proposed export or transfer on the military capabilities of the foreign country or international organization to which such export or transfer would be made;

(E) an analysis of the manner in which the proposed export would affect the relative military strengths of countries in the region to which the goods or services which are the subject of such export would be delivered and whether other countries in the region have comparable kinds and amounts of articles, services, or design and construction services; and

(F) an analysis of the impact of the proposed export or transfer on the United States relations with the countries

[8] Sec. 736 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 506) added para. (5).

in the region to which the goods or services which are the subject of such export would be delivered.

* * * * * * *

(l) MISSILE TECHNOLOGY.—

(1) DETERMINATION OF CONTROLLED ITEMS.—The Secretary, in consultation with the Secretary of State, the Secretary of Defense, and the heads of other appropriate departments and agencies—

(A) shall establish and maintain, as part of the control list established under this section, a list of all dual use goods and technology on the MTCR Annex; and

(B) may include, as part of the control list established under this section, goods and technology that would provide a direct and immediate impact on the development of missile delivery systems and are not included in the MTCR Annex but which the United States is proposing to the other MTCR adherents to have included in the MTCR Annex.

(2) REQUIREMENT OF INDIVIDUAL VALIDATED LICENSES.—The Secretary shall require an individual validated license for—

(A) any export of goods or technology on the list established under paragraph (1) to any country; and

(B) any export of goods or technology that the exporter knows is destined for a project or facility for the design, development, or manufacture of a missile in a country that is not an MTCR adherent.

(3) POLICY OF DENIAL OF LICENSES.—(A) Licenses under paragraph (2) should in general be denied if the ultimate consignee of the goods or technology is a facility in a country that is not an adherent to the Missile technology Control regime and the facility is designed to develop or build missiles.

(B) Licenses under paragraph (2) shall be denied if the ultimate consignee of the goods or technology is a facility in a country the government of which has been determined under subsection (j) to have repeatedly provided support for acts of international terrorism.

* * * * * * *

CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION SANCTIONS

SEC. 11C.[9] (a) IMPOSITION OF SANCTIONS.—

[9] 50 U.S.C. app. 2410c. Sec. 505(a) of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title V of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; Public Law 102–138; 105 Stat. 724) added sec. 11C. Subsequently, sec. 309(a) of Public Law 102–182 (105 Stat. 1258) repealed title V of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 and all the amendments therein, including this new sec. 11C.

However, sec. 305(a) of Public Law 102–182 (105 Stat. 1247) amended this Act by inserting a new sec. 11C at this point.

Executive Order 12851 of June 11, 1993 (58 F.R. 33181) delegated the authority in sec. 11C to the Secretary of State with the following exceptions:

—sec. 11C(c)(1)(A), pursuant to a determination made by the Secretary of State under sec. 81(a)(1) of the AECA or sec. 11C(a)(1) of this Act, as well as the authority and duties provided for in section 81(c)(2) of the AECA and section 11C(c)(2) of this Act—Secretary of Defense;

—sec. 11C(c)(1)(B), pursuant to a determination made by the Secretary of State under sec. 81(a)(1) of the AECA, or sec. 11C(a)(1) of this Act, and the obligation to implement the ex-

Continued

(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of the enactment of this section,[10] has knowingly and materially contributed—

(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States under this Act, or

(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States under this Act, to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

* * * * * * *

(B) any foreign country whose government is determined for purposes of section 6(j) of this Act to be a government that has repeatedly provided support for acts of international terrorism; or

* * * * * * *

ANNUAL REPORT

SEC. 14.[11] (a) CONTENTS.—Not later than December 31 of each year, the Secretary shall submit to the Congress a report on the administration of this Act during the preceding fiscal year. All agencies shall cooperate fully with the Secretary in providing information for such report. Such report shall include detailed information with respect to—

(1) the implementation of the policies set forth in section 3;

(2) general licensing activities under sections 5, 6, and 7, and any changes in the exercise of the authorities contained in sections 5(a), 6(a), and 7(a);

(3) the results of the review of United States policy toward individual countries pursuant to section 5(b);

(4) the results, in as much detail as may be included consistent with the national security and the need to maintain the confidentiality of proprietary information, of the actions, including reviews and revisions of export controls maintained for national security purposes, required by section 5(c)(3);

(5) actions taken to carry our section 5(d);

(6) changes in categories of items under export control referred to in section 5(e);

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ceptions provided for in sec. 81(c)(2) of the AECA or sec. 11C(c)(2) of this Act, insofar as the exceptions affect imports of goods into the U.S.,—Secretary of the Treasury.

[10] Sec. 309(b)(1) of Public Law 102–182 (105 Stat. 1258) deemed this date of enactment to be the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138), October 28, 1991.

[11] 50 U.S.C. app. 2413.

(7) determinations of foreign availability made under section 5(f), the criteria used to make such determinations, the removal of any export controls under such section, and any evidence demonstrating a need to impose export controls for national security purposes notwithstanding foreign availability;

(8) actions taken in compliance with section 5(f)(6);

(9) the operation of the indexing system under section 5(g);

(10) consultations with the technical advisory committees established pursuant to section 5(h), the use made of the advice rendered by such committees, and the contributions of such committees toward implementing the policies set forth in this Act;

(11) the effectiveness of export controls imposed under section 6 in furthering the foreign policy of the United States;

(12) export controls and monitoring under section 7;

(13) the information contained in the reports required by section 7(b)(2), together with an analysis of—

(A) the impact on the economy and world trade of shortages or increased prices for commodities subject to monitoring under this Act or section 812 of the Agricultural Act of 1970;

(B) the worldwide supply of such commodities; and

(C) actions being taken by other countries in response to such shortages or increased prices;

(14) actions taken by the President and the Secretary to carry out the antiboycott policies set forth in section 3(5) of this Act;

(15) organizational and procedural changes undertaken in furtherance of the policies set forth in this Act, including changes to increase the efficiency of the export licensing process and to fulfill the requirements of section 10, including an accounting of appeals received, court orders issued, and actions taken pursuant thereto under subsection (j) of such section;

(16) delegations of authority by the President as provided in section 4(e) of this Act;

(17) efforts to keep the business sector of the Nation informed with respect to policies and procedures adopted under this Act;

(18) any reviews undertaken in furtherance of the policies of this Act, including the results of the review required by section 12(d), and any action taken, on the basis of the review required by section 12(e), to simplify regulations issued under this Act;

(19) violations under section 11 and enforcement activities under section 12; and

(20) the issuance of regulations under the authority of this Act, including an explanation of each case in which regulations were not issued in accordance with the first sentence of section 13(b).

(b) REPORT ON CERTAIN EXPORT CONTROLS.—To the extent that the President determines that the policies set forth in section 3 of this Act require the control of the export of goods and technology other than those subject to multilateral controls, or require more stringent controls than the multilateral controls, the President shall include in each annual report the reasons for the need to im-

pose, or to continue to impose, such controls and the estimated domestic economic impact on the various industries affected by such controls.

(c) REPORT ON NEGOTIATIONS.—The President shall include in each annual report a detailed report on the progress of the negotiations required by section 5(i), until such negotiations are concluded.

(d) REPORT ON EXPORTS TO CONTROLLED COUNTRIES.—The Secretary shall include in each annual report a detailed report which lists every license for exports to controlled countries which was approved under this Act during the preceding fiscal year. Such report shall specify to whom the license was granted, the type of goods or technology exported, and the country receiving the goods or technology. The information required by this subsection shall be subject to the provisions of section 12(c) of this Act.

(e) REPORT ON DOMESTIC ECONOMIC IMPACT OF EXPORTS TO CONTROLLED COUNTRIES.—The Secretary shall include in each annual report a detailed description of the extent of injury to United States industry and the extent of job displacement caused by United States exports of goods and technology to controlled countries. The annual report shall also include a full analysis of the consequences of exports of turnkey plants and manufacturing facilities to controlled countries which are used by such countries to produce goods for export to the United States or to compete with United States products in export markets.

(f) ANNUAL REPORT OF THE PRESIDENT.—The President shall submit an annual report to the Congress estimating the additional defense expenditures of the United States arising from illegal technology transfers, focusing on estimated defense costs arising from illegal technology transfers that resulted in a serious adverse impact on the strategic balance of forces. These estimates shall be based on assessment by the intelligence community of any technology transfers that resulted in such serious adverse impact. This report may have a classified annex covering any information of a sensitive nature.

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3. Trade Expansion Act of 1962, as amended

Partial text of Public Law 87–794 [H.R. 11970], 76 Stat. 872, approved October 11, 1962, as amended

TITLE I—SHORT TITLE AND PURPOSES

SEC. 101. SHORT TITLE.

This Act may be cited as the "Trade Expansion Act of 1962".

* * * * * * *

SEC. 232.[1] SAFEGUARDING NATIONAL SECURITY.

(a) No action shall be taken pursuant to section 201(a) or pursuant to section 350 of the Tariff Act of 1930 to decrease or eliminate the duty or other import restriction on any article if the President determines that such reduction or elimination would threaten to impair the national security.

(b)[2] (1)(A) Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Secretary of Commerce (hereafter in this section referred to as the 'Secretary') shall immediately initiate an appropriate investigation to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion.

(B) The Secretary shall immediately provide notice to the Secretary of Defense of any investigation initiated under this section.

(2)(A) In the course of any investigation conducted under this subsection, the Secretary shall—

(i) consult with the Secretary of Defense regarding the methodological and policy questions raised in any investigation initiated under paragraph (1),

(ii) seek information and advice from, and consult with, appropriate officers of the United States, and

(iii) if it is appropriate and after reasonable notice, hold public hearings or otherwise afford interested parties an opportunity to present information and advice relevant to such investigation.

(B) Upon the request of the Secretary, the Secretary of Defense shall provide the Secretary an assessment of the defense requirements of any article that is the subject of an investigation conducted under this section.

(3)(A) By no later than the date that is 270 days after the date on which an investigation is initiated under paragraph (1) with respect to any article, the Secretary shall submit to the President a report on the findings of such investigation with respect to the ef-

[1] 19 U.S.C. 1862.

[2] Former subsec. (b), as amended by sec. 127(d) of Public Law 93–618 (88 Stat. 1978 at 1993), was struck out by sec. 1501(a)(3) of Public Law 100–418 (102 Stat. 1257) which added new subsecs. (b) and (c).

fect of the importation of such article in such quantities or under such circumstances upon the national security and, based on such findings, the recommendations of the Secretary for action or inaction under this section. If the Secretary finds that such article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the Secretary shall so advise the President in such report.

(B) Any portion of the report submitted by the Secretary under subparagraph (A) which does not contain classified information or proprietary information shall be published in the Federal Register.

(4) The Secretary shall prescribe such procedural regulations as may be necessary to carry out the provisions of this subsection.

(c)[2] (1)(A) Within 90 days after receiving a report submitted under subsection (b)(3)(A) in which the Secretary finds that an article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the President shall—

(i) determine whether the President concurs with the finding of the Secretary, and

(ii) if the President concurs, determine the nature and duration of the action that, in the judgment of the President, must be taken to adjust the imports of the article and its derivatives so that such imports will not threaten to impair the national security.

(B) If the President determines under subparagraph (A) to take action to adjust imports of an article and its derivatives, the President shall implement that action by no later than the date that is 15 days after the day on which the President determines to take action under subparagraph (A).

(2) By no later than the date that is 30 days after the date on which the President makes any determinations under paragraph (1), the President shall submit to the Congress a written statement of the reasons why the President has decided to take action, or refused to take action, under paragraph (1). Such statement shall be included in the report published under subsection (e).

(3)(A) If—

(i) the action taken by the President under paragraph (1) is the negotiation of an agreement which limits or restricts the importation into, or the exportation to, the United States of the article that threatens to impair national security, and

(ii) either—

(I) no such agreement is entered into before the date that is 180 days after the date on which the President makes the determination under paragraph (1)(A) to take such action, or

(II) such an agreement that has been entered into is not being carried out or is ineffective in eliminating the threat to the national security posed by imports of such article,

the President shall take such other actions as the President deems necessary to adjust the imports of such article so that such imports will not threaten to impair the national security. The President shall publish in the Federal Register notice of any additional actions being taken under this section by reason of this subparagraph.

(B) If—

(i) clauses (i) and (ii) of subparagraph (A) apply, and

(ii) the President determines not to take any additional actions under this subsection,

the President shall publish in the Federal Register such determination and the reasons on which such determination is based.

(d)[3] For the purposes of this section, the Secretary and the President shall, in the light of the requirements of national security and without excluding other relevant factors, give consideration to domestic production needed for projected national defense requirements, the capacity of domestic industries to meet such requirements, existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense, the requirements of growth of such industries and such supplies and services including the investment, exploration, and development necessary to assure such growth, and the importation of goods in terms of their quantities, availabilities, character, and use of those affect such industries and the capacity of the United States to meet national security requirements. In the administration of this section, the Secretary and the President shall further recognize the close relation of the economic welfare of the Nation to our national security, and shall take into consideration the impact of foreign competition on the economic welfare of individual domestic industries; and any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products by excessive imports shall be considered, without excluding other factors, in determining whether such weakening of our internal economy may impair the national security.

(d)[4] (1) Upon the disposition of each request, application, or motion under subsection (b), the Secretary shall submit to the Congress, and publish in the Federal Register, a report on such disposition.

(2) The President shall submit to the Congress an annual report on the operation of the provisions of this section.

(f)[5] (1) An action taken by the President under subsection (c)[5] to adjust imports of petroleum or petroleum products shall cease to have force and effect upon the enactment of a disapproval resolution, provided for in paragraph (2), relating to that action.

(2)(A) This paragraph is enacted by the Congress—

(i) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedures to be followed in

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[3] Subsec. (d) was redesignated from subsec. (c) by sec. 1501(a) of Public Law 100–418 (102 Stat. 1257).

[4] This second subsec. (d) was redesignated as subsec. (e) by sec. 1501(a)(2) of Public Law 100–418 (102 Stat. 1257). Subsequently, sec. 1501(b)(1) of that Act amended subsec. "(e)" to read as subsec. "(d)". This subsec. should probably read "(e)". This subsec. previously read as follows: "(d) A report shall be made and published upon the disposition of each request, application, or motion under subsection (b). The Secretary shall publish procedural regulations to give effect to the authority conferred on him by subsection (b).".

[5] Subsec. (f), previously added as subsec. (e) by sec. 402 of the Windfall Profit Tax Act (Public Law 96–223; 94 Stat. 301), was amended by sec. 1501(a)(2) of Public Law 100–418 (102 Stat. 1257) which substituted "subsection (c)" lieu of "subsection (b)" each place it appeared, and redesignated subsec. (e) as subsec. (f).

that House in the case of disapproval resolutions and such procedures supersede other rules only to the extent that they are inconsistent therewith; and

(ii) with the 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 any other rule of that House.

(B) For purposes of this subsection, the term "disapproval resolution" means only a joint resolution of either House of Congress the matter after resolving clause of which is as follows: "That the Congress disapproves the action taken under section 232 of the Trade Expansion Act of 1962 with respect to petroleum imports under ..... dated .....", the first blank space being filled with the number of the proclamation, Executive order, or other Executive act issued under the authority of subsection (c)[5] of such section 232 for purposes of adjusting imports of petroleum or petroleum products and the second blank being filled with the appropriate date.

(C)(i) All disapproval resolutions introduced in the House of Representatives shall be referred to the Committee on Ways and Means and all disapproved resolutions introduced in the Senate shall be referred to the Committee on Finance.

(ii) No amendment to a disapproval resolution shall be in order in either the House of Representatives or the Senate, and no motion to suspend the application of this clause shall be in order in either House nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this clause by unanimous consent.

SEC. 233.[6] IMPORT SANCTIONS FOR EXPORT VIOLATIONS.

Any person who violates any national security export control imposed under section 5 of the Export Administration Act of 1979 (50 U.S.C. App. 2404), or any regulation, order, or license issued under that section, may be subject to such controls on the importing of goods or technology into the United States as the President may prescribe.

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[6] 19 U.S.C. 1864. Sec. 233 was added by sec. 121 of the Export Administration Amendments Act of 1985 (Public Law 99–43; 99 Stat. 154). Subsequently, sec. 233 was amended by sec. 2447(a) of Public Law 100–418 (102 Stat. 1370) which struck out the "(a)" preceding "Any person" and deleted subsec. (b). Subsec. (b) previously read as follows:

"(b) Except as provided in subsection (a) of this section, any person who violates any regulation issued under a multilateral agreement, formal or informal, to control exports for national security purposes, to which the United States is a party, may be subject to such controls on the importing of goods or technology into the United States as the President may prescribe, but only if—

"(1) negotiations with the government or governments, party to the multilateral agreement, with jurisdiction over the violation have been conducted and been unsuccessful in restoring compliance with the regulation involved;

"(2) the President, after the failure of such negotiations, has notified the government or governments described in paragraph (1) and the other parties to the multilateral agreement that the United States proposes to subject the person committing the violation to specific controls on the importing of goods or technology into the United States upon the expiration of 60 days from the date of such notification; and

"(3) a majority of the parties to the multilateral agreement (other than the United States), before the end of that 60-day period, have expressed to the President concurrence in the proposed import controls or have abstained from stating a position with respect to the proposed controls.".

4. Trading With the Enemy Act, as amended

Partial text of Public Law 65–91 [H.R. 4960], 40 Stat. 411, approved October 6, 1917, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That[1] this Act shall be known as the "Trading with the enemy[2] Act".

* * * * * * *

SEC. 5. (a) * * *

(b)[3] (1) During the time of war,[4] the President may through any agency that he may designate, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

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[1] 50 U.S.C. app. 1.

[2] So in original.

[3] 50 U.S.C. app. 5(b). Subsec. (b), which is also classified to 12 U.S.C. 95a (Banks and Banking) was amended and restated by sec. 301 of Public Law 77–354 (55 Stat. 839).

[4] The words "or during any other period of national emergency declared by the President", which previously appeared at this point, were struck out by sec. 101(a) of Public Law 95–223 (91 Stat. 1625). Sec. 101 (b) and (c) of the same Act further stipulated:

"(b) Notwithstanding the amendment made by subsection (a), the authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, may continue to be exercised with respect to such country, except that, unless extended the exercise of such authorities shall terminate (subject to the savings provisions of the second sentence of section 101(a) of the National Emergencies Act) at the end of the two-year period beginning on the date of enactment of the National Emergencies Act. The President may extend the exercise of such authorities for one-year periods upon a determination of each such extension that the exercise of such authorities with respect to such country for another year is in the national interest of the United States.

"(c) The termination and extension provisions of subsection (b) of this section supersede the provisions of section 101(a) and of title II of the National Emergencies Act to the extent that the provisions of subsection (b) of this section are inconsistent with those provisions.".

Each year since 1977, the President has utilized authority granted his office pursuant to the National Emergencies Act to extend certain authorities being exercised prior to July 1, 1977, under sec. 5(b) of the Trading with the Enemy Act. The most recent action, Presidential Determination 97–32 of September 12, 1997 (62 F.R. 48729), extended until September 14, 1998, the exercise of those authorities with respect to countries affected by the Foreign Assets Control Regulations (31 CFR Part 500), the Transaction Control Regulations (31 CFR Part 505), and the Cuban Assets Control Regulations (31 CFR Part 515).

Previous extensions have been issued as a memorandum of September 8, 1978 (43 F.R. 40449); memorandum of September 12, 1979 (44 F.R. 553153); memorandum of September 8, 1980 (45 F.R. 59549); memorandum of September 10, 1981 (46 F.R. 45321); memorandum of September 8, 1982 (47 F.R. 39797); memorandum of September 7, 1983 (48 F.R. 40695); memorandum of September 11, 1984 (49 F.R. 35927); memorandum of September 5, 1985 (5 F.R. 36563); memorandum of August 20, 1986 (51 F.R. 30201); memorandum of August 27, 1987 (52 F.R. 33397); Presidential Determination No. 88–22 of September 8, 1988 (53 F.R. 35289); Presidential Determination No. 89–25 of August 28, 1989 (54 F.R. 37089); Presidential Determination No. 90–38 of September 5, 1990 (55 F.R. 37309); Presidential Determination No. 91–52 of September 13, 1991 (56 F.R. 48415); Presidential Determination No. 92–45 of August 28, 1992 (57 F.R. 43125); Presidential Determination No. 93–38 of September 13, 1993 (58 F.R. 51209); Presidential Determination No. 94–46 of September 8, 1994 (59 F.R. 47229); Presidential Determination No. 95–41 of September 8, 1995 (60 F.R. 47659); and Presidential Determination No. 96–43 of August 27, 1996 (61 F.R. 46529).

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer withdrawal, transportation, importation or exportation of, or dealing in or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, otherwise dealt with in the interest of and for the benefit of the United States and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.[5]

(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder.

(3) As used in this subdivision the term "United States" means the United States and any place subject to the jurisdiction thereof:[6] *Provided, however,* That the foregoing shall not be construed

[5] The words "; and the President may, in the manner hereinabove provided, take other or further measures not inconsistent herewith for the enforcement of this subdivision", which previously appeared at this point, were struck out by sec. 102(2) of Public Law 95–223 (91 Stat. 1625).

[6] Words "including the Philippine Islands, and the several courts of first instance of the Commonwealth of the Philippine Islands shall have jurisdiction in all cases, civil or criminal, arising under this subdivision in the Philippine Islands and concurrent jurisdiction with the district courts of the United States of all cases, civil or criminal, arising upon the high seas" immediately preceding the proviso in subsec. (b)(3) of this section, have been omitted on the authority of 1946 Proclamation No. 2695, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse, and in which the President proclaimed the independence of the Philippines.

as a limitation upon the power of the President, which is hereby conferred, to prescribe from time to time, definitions, not inconsistent with the purposes of this subdivision, for any or all of the terms used in this subdivision.[7] As used in this subdivision the term "person" means an individual, partnership, association, or corporation.

(4)[8] The authority granted to the President by this section does not include the authority to regulate or prohibit, directly or indirectly, the importation from any country, or the exportation to any country, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials, including but not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds. The exports exempted from regulation or prohibition by this paragraph do not include those which are otherwise controlled for export under section 5 of the Export Administration Act of 1979, or under section 6 of that Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States, or with respect to which acts are prohibited by chapter 37 of title 18, United States Code.

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[7] Sec. 103(b) of Public Law 95–223 (91 Stat. 1626) struck out the following sentence which previously appeared at this point:

"Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than $10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.".

[8] Sec. 525(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 474), amended and restated para. (4). Sec. 525(b)(2) of that Act further provided:

"(2) The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country 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, do not include the authority to regulate or prohibit, directly or indirectly, any activity which, under section 5(b)(4) of the Trading With the Enemy Act, as amended by paragraph (1) of this subsection, may not be regulated or prohibited.".

Sec. 525(a) of that Act, furthermore, stated the following:

"(a) SENSE OF CONGRESS.—It is the sense of the Congress that the President should not restrict travel or exchanges for informational, educational, religious, cultural, or humanitarian purposes or for public performances or exhibitions, between the United States and any other country.".

5. International Emergency Economic Powers Act

Title II of Public Law 95–223 [H.R. 7738], 91 Stat. 1625, approved December 28, 1977, as amended

AN ACT With respect to the powers of the President in time of war or national emergency.

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

* * * * * * *

TITLE II—INTERNATIONAL EMERGENCY ECONOMIC POWERS

SHORT TITLE

SEC. 201.[1] This title may be cited as the "International Emergency Economic Powers Act".

SITUATIONS IN WHICH AUTHORITIES MAY BE EXERCISED

SEC. 202.[2] (a) Any authority granted to the President by section 203 may be exercised to deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to such threat.

(b) The authorities granted to the President by section 203 may only be exercised to deal with an unusual and extraordinary threat with respect to which a national emergency has been declared for purposes of this title and may not be exercised for any other purpose. Any exercise of such authorities to deal with any new threat shall be based on a new declaration of national emergency which must be with respect to such threat.

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[1] 50 U.S.C. 1701 note.

[2] 50 U.S.C. 1701. Relating to Presidential authority and relations with Iraq, see sec. 1458 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1697); the Iraq Sanctions Act of 1990 (secs. 586–586J of Public Law 101–513; 104 Stat. 2047).

See also title XVI of the National Defense Authorization Act for Fiscal Year 1993 (Iran-Iraq Arms Non-Proliferation Act of 1992) (Public Law 102–484; 106 Stat. 2571).

See also sec. 533 of the Foreign Relations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of Public Law 104–208; 110 Stat. 3009), relating to compliance with United Nations sanctions against Iraq, Serbia and Montenegro, in U.S. Congress. House. Committee on International Relations. *Legislation on Foreign Relations Through 1996*, (Washington, G.P.O., 1997), volume I–A.

See also sec. 1511 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1839), relating to sanctions against Serbia and Montenegro, in U.S. Congress. House. Committee on International Relations. *Legislation on Foreign Relations Through 1996*, (Washington, G.P.O., 1997), volume I–B.

GRANTS OF AUTHORITIES

SEC. 203.[3] (a)(1) At the times and to the extent specified in section 202, the President may, under such regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit—

(i) any transactions in foreign exchange,

(ii) transfer of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interest of any foreign country or a national thereof,

(iii) the importing or exporting of currency or securities; and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest; by any person, or with respect to any property, subject to the jurisdiction of the United States.

(2) In exercising the authorities granted by paragraph (1), the President may require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in paragraph (1) either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of such paragraph. In any case in which a report by a person could be required under this paragraph, the President may require the production of any books of account, records, contracts, letters, memorandums, or other papers, in the custody or control of such person.

(3) Compliance with any regulation, instruction, or direction issued under this title shall to the extent thereof be a full acquittance and discharge for all purposes of the obligations of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this title, or any regulation, instruction, or direction issued under this title.

(b) The authority granted to the President by this section does not include the authority to regulate or prohibit, directly or indirectly—

(1) any postal, telegraphic, telephonic, or other personal communication, which does not involve a transfer of anything of value;[4]

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[3] 50 U.S.C. 1702.

[4] Sec. 203(b) was amended by sec. 2502(b)(1) of Public Law 100–418 (102 Stat. 1371) which struck out "or" in par. (1); struck out the period and inserted "; or" in par. (2) and added new par. (3). Sec. 2502(b)(2) of that Act also stated that:

"(2) The amendments made by paragraph (1) apply to actions taken by the President under section 203 of the International Emergency Economic Powers Act before the date of the enact-

Continued

(2) donations, by persons subject to the jurisdiction of the United States, of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering, except to the extent that the President determines that such donations (A) would seriously impair his ability to deal with any national emergency, declared under section 202 of this title, (B) or in response to coercion against the proposed recipient or donor, or (C) would endanger Armed Forces of the United States which are engaged in hostilities or are in a situation where imminent involvement in hostilities is clearly indicated by the circumstances.

(3)[5] the importation from any country, or the exportation to any country, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials, including but not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds. The exports exempted from regulation or prohibition by this paragraph do not include those which are otherwise controlled for export under section 5 of the Export Administration Act of 1979, or under section 6 of such Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States, or with respect to which acts are prohibited by chapter 37 of title 18, United States Code; or

(4)[5] any transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

CONSULTATION AND REPORTS

SEC. 204.[6] (a) The President, in every possible instance, shall consult with the Congress before exercising any of the authorities granted by this title and shall consult regularly with the Congress so long as such authorities are exercised.

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ment of this Act which are in effect on such date of enactment, and to actions taken under such section on or after such date of enactment.".

[5] Sec. 525(c)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 474) struck out para. (3) and inserted new paras. (3) and (4). Paragraph (3) formerly read as follows:

"(3) the importation from any country, or the exportation to any country, whether commercial or otherwise, of publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, or other informational materials, which are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 or with respect to which no acts are prohibited by chapter 37 of title 18, United States Code.".

Sec. 525(c)(2) and (3) of that Act further provided the following:

"(2) The amendments made by paragraph (1) to section 203(b)(3) of the International Emergency Economic Powers Act apply to actions taken by the President under section 203 of such Act before the date of enactment of this Act which are in effect on such date and to actions taken under such section on or after such date.

"(3) Section 203(b)(4) of the International Emergency Economic Powers Act (as added by paragraph (1)) shall not apply to restrictions on the transactions and activities described in section 203(b)(4) in force on the date of enactment of this Act, with respect to countries embargoed under the International Emergency Economic Powers Act on the date of enactment of this Act.".

[6] 50 U.S.C. 1703.

(b) Whenever the President exercises any of the authorities granted by this title, he shall immediately transmit to the Congress a report specifying—

(1) the circumstances which necessitate such exercise of authority;

(2) why the President believes those circumstances constitute an unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States;

(3) the authorities to be exercised and the actions to be taken in the exercise of those authorities to deal with those circumstances;

(4) why the President believes such actions are necessary to deal with those circumstances; and

(5) any foreign countries with respect to which such actions are to be taken and why such actions are to be taken with respect to those countries.

(c) At least once during each succeeding six-month period after transmitting a report pursuant to subsection (b) with respect to an exercise of authorities under this title, the President shall report to the Congress with respect to the actions taken, since the last such report, in the exercise of such authorities, and with respect to any changes which have occurred concerning any information previously furnished pursuant to paragraphs (1) through (5) of subsection (b).

(d) The requirements of this section are supplemental to those contained in title IV of the National Emergencies Act.

AUTHORITY TO ISSUE REGULATIONS

SEC. 205.[7] The President may issue such regulations, including regulations prescribing definitions, as may be necessary for the exercise of the authorities granted by this title.

PENALTIES

SEC. 206.[8] (a) A civil penalty of not to exceed $10,000[9] may be imposed on any person who violates any license, order or regulation issued under this title.

(b) Whoever willfully violates any license, order, or regulation issued under this title shall, upon conviction, be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

[7] 50 U.S.C. 1704.

[8] 50 U.S.C. 1705.

[9] Sec. 629 of the Treasury, Postal Service, and General Government Appropriations Act, 1993 (Public Law 102–393; 106 Stat. 1773) struck out "$10,000" and inserted in lieu thereof "$50,000". Sec. 9155 of the Department of Defense Appropriations Act, 1993 (Public Law 102–396; 106 Stat. 1943), however, struck out "$50,000" and inserted in lieu thereof "$10,000".

SAVINGS PROVISION

SEC. 207.[10] (a)(1) Except as provided in subsection (b), notwithstanding the termination pursuant to the National Emergencies Act of a national emergency declared for purposes of this title, any authorities granted by this title, which are exercised on the date of such termination on the basis of such national emergency to prohibit transactions involving property in which a foreign country or national thereof has any interest, may continue to be so exercised to prohibit transactions involving that property if the President determines that the continuation of such prohibition with respect to that property is necessary on account of claims involving such country of its nationals.

(2) Notwithstanding the termination of the authorities described in section 101(b) of this Act, any such authorities, which are exercised with respect to a country on the date of such termination to prohibit transactions involving any property in which such country or any national thereof has any interest, may continue to be exercised to prohibit transactions involving that property if the President determines that the continuation of such prohibition with respect to that property is necessary on account of claims involving such country or its nationals.

(b) The authorities described in subsection (a)(1) may not continue to be exercised under this section if the national emergency is terminated by the Congress by concurrent resolution pursuant to section 202 of the National Emergencies Act and if the Congress specifies in such concurrent resolution that such authorities may not continue to be exercised under this section.

(c)(1) The provisions of this section are supplemental to the savings provisions of paragraphs (1), (2), and (3) of section 101(a) and of paragraphs (A), (B), and (C) of section 202(a) of the National Emergencies Act.

(2) The provisions of this section supersede the termination provisions of section 101(a) and of title II of the National Emergencies Act to the extent that the provisions of this section are inconsistent with these provisions.

(d) If the President uses the authority of this section to continue prohibitions on transactions involving foreign property interests, he shall report to the Congress every six months on the use of such authority.

SEC. 208.[11] If any provision of this Act is held invalid, the remainder of the Act shall not be affected thereby.

[10] 50 U.S.C. 1706.
[11] 50 U.S.C. 1701 note.

6. Export-Import Bank Act of 1945, as amended

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. * * *

(b)(1) (A) It is the policy of the United States to foster expansion of exports of manufactured goods, agricultural products, and other goods and services, thereby contributing to the promotion and maintenance of high levels of employment and real income to the increased development of the productive resources of the United States. To meet this objective in all its programs, the Export-Import Bank is directed, in the exercise of its functions, to provide guarantees, insurance, and extensions of credit at rates and on terms and other conditions which are fully competitive with the Government-supported rates and terms and other conditions available for the financing of exports of goods and services from the principal countries whose exporters compete with United States exporters. The Bank shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in Government-supported export financing and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce government subsidized export financing. The Bank shall, on a annual basis, report to the appropriate committees of Congress its actions in complying with these directives. In this report the Bank shall include a survey of all other major export-financing facilities available from other governments and government-related agencies through which foreign exporters compete with United States exporters and indicate in specific terms the ways in which the Bank's rates, terms, and other conditions compare with those offered from such other governments directly or indirectly. Further the Bank shall at the same time survey a representative number of United States exporters and United States commercial lending institutions which provide export credit to determine their experience in meeting financial competition from other countries whose exporters compete with United States exporters. The results of this survey shall be included as part of the annual report[1] required by this subparagraph. The Bank shall include in the annual report a description of its role in the implementation of the strategic plan prepared by

[1] So in original. Should read "an". This requirement was altered from a semiannual report to an annual report by sec. 210 of Public Law 96–470 (94 Stat. 2245).

the Trade Promotion Coordinating Committee in accordance with section 2312 of the Export Enhancement Act of 1988.[2]

(B) It is further the policy of the United States that loans made by the Bank in all its programs shall bear interest at rates determined by the Board of Directors, consistent with the Bank's mandate to support United States exports at rates and on terms and conditions which are fully competitive with exports of other countries, and consistent with international agreements. For the purpose of the preceding sentence, rates and terms and conditions need not be identical in all respects to those offered by foreign countries, but should be established so that the effect of such rates, terms, and conditions for all the Bank's programs, including those for small businesses and for medium-term financing, will be to neutralize the effect of such foreign credit on international sales competition. The Bank shall consider its average cost of money as one factor in its determination of interest rates, where such consideration does not impair the Bank's primary function of expanding United States exports through fully competitive financing. The Bank may not impose a credit application fee unless (i) the fee is competitive with the average fee charged by the Bank's primary foreign competitors, and (ii) the borrower or the exporter is given the option of paying the fee at the outset of the loan or over the life of the loan and the present value of the fee determined under either such option is the same amount. It is also the policy of the United States that the Bank in the exercise of its functions should supplement and encourage, and not compete with, private capital; that the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990;[3] that the Bank shall accord equal opportunity to export agents and managers, independent export firms, export trading companies, and small commercial banks in the formulation and implementation of its programs; that the Bank should give emphasis to assisting new and small business entrants in the agricultural export market, and shall, in cooperation with other relevant Government agencies, including the Commodity Credit Corporation, develop a program of education to increase awareness of export opportunities among small agribusinesses and cooperatives, that loans, so far as possible consistent with the carrying out of the purposes of subsection (a) of this section, shall generally be for specific purposes, and, in the judgment of the Board of Directors, offer reasonable assurance of repayment; and that in authorizing any loan or guarantee, the

[2] Sec. 121(a)(2) of the Export Enhancement Act of 1992 (Public Law 102–429; 106 Stat. 2198) struck out "The Bank shall also include in the annual report a description of each loan by the Bank involving the export of any product or service related to the production, refining, or transportation of any type of energy or the development of any energy resources with a statement assessing the impact, if any, on the availability of such products, services, or energy supplies thus developed for use within the United States.", and inserted in lieu thereof "The Bank shall include in the annual report a description of its role in the implementation of the strategic plan prepared by the Trade Promotion Coordinating Committee in accordance with section 2312 of the Export Enhancement Act of 1988.".

[3] Sec. 104 of the Export Enhancement Act of 1992 (Public Law 102–429; 106 Stat. 2189) added this clause.

Board of Directors shall take into account any serious adverse effect of such loan or guarantee on the competitive position of United States industry, the availability of materials which are in short supply in the United States, and employment in the United States, and shall give particular emphasis to the objective of strengthening the competitive position of United States exporters and thereby of expanding total United States exports. Only in cases where the President determines that such action would be in the national interest where such action would clearly and importantly advance United States policy in such areas as international terrorism, nuclear proliferation, environmental protection and human rights, should the Export-Import Bank deny applications for credit for nonfinancial or noncommercial considerations.[4]

(C) Consistent with the policy of section 501 of the Nuclear Non-Proliferation Act of 1978 and section 119 of the Foreign Assistance Act of 1961, the Board of Directors shall name an officer of the Bank whose duties shall include advising the President of the Bank on ways or promoting the export of goods and services to be used in the development, production, and distribution of nonnuclear renewable energy resources, disseminating information concerning export opportunities and the availability of Bank support for such activities, and acting as a liaison between the Bank and the Department of Commerce and other appropriate departments and agencies.

(D) (i) It is further the policy of the United States to foster the delivery of United States services in international commerce. In exercising its powers and functions, the Bank shall give full and equal consideration to making loans and providing guarantees for the export of services (independently, or in conjunction with the export of manufactured goods, equipment, hardware or other capital goods) consistent with the Bank's policy to neutralize foreign subsidized credit competition and to supplement the private capital market.

(ii) The Bank shall include in its annual report a summary of its programs regarding the export of services.

(E) (i)(I) It is further the policy of the United States to encourage the participation of small business in international commerce.

(II) In exercising its authority, the Bank shall develop a program which gives fair consideration to making loans and providing guarantees for the export of goods and services by small businesses.

(ii) It is further the policy of the United States that the Bank shall give due recognition to the policy stated in section 2(a) of the Small Business Act that "the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise".

(iii) In furtherance of this policy, the Board of Directors shall designate an officer of the Bank who—

(I) shall be responsible to the President of the Bank for all matters concerning or affecting small business concerns; and

[4] Popularly referred to as the Chafee amendment. Sec. 1904 of Public Law 95–630 (92 Stat. 3724) struck out a phrase concerning human rights, which had been added by sec. 2 of Public Law 95–143 (91 Stat. 1210), and substituted the words to this point beginning with "and shall give particular emphasis to".

(II) among other duties, shall be responsible for advising small business concerns of the opportunities for small business concerns in the functions of the Bank and for maintaining liaison with the Small Business Administration and other departments and agencies in matters affecting small business concerns.)

(iv) The Director appointed to represent the interests of small business under section 3(c) of this Act shall ensure that the Bank carries out its responsibilities under clauses (ii) and (iii) of this subparagraph and that the Bank's financial and other resources are, to the maximum extent possible, appropriately used for small business needs.

(v) To assure that the purposes of clauses (i) and (ii) of this subparagraph are carried out, the Bank shall make available, from the aggregate loan, guarantee, and insurance authority available to it, an amount to finance exports directly by small business concerns (as defined under section 3 of the Small Business Act) which shall be not less than 10 percent of such authority for each fiscal year.[5]

(vi) The Bank shall utilize the amount set-aside pursuant to clause (v) of this subparagraph to offer financing for small business exports on terms which are fully competitive with regard to interest rates and with regard to the portion of financing which may be provided, guaranteed, or insured. Financing under this clause (vi) shall be available without regard to whether financing for the particular transaction was disapproved by any other Federal agency.

(vii)(I) The Bank shall utilize a part of the amount set aside pursuant to clause (v) to provide lines of credit or guarantees to consortia of small or medium size banks, export trading companies, State export finance agencies, export financing cooperatives, small business investment companies (as defined in section 103 of the Small Business Investment Act of 1958), or other financing institutions or entities in order to finance small business exports.

(II) Financing under this clause (vii) shall be made available only where the consortia or the participating institutions agree to undertake processing, servicing, and credit evaluation functions in connection with such financing.

(III) To the maximum extent practicable, the Bank shall delegate to the consortia the authority to approve financing under this clause (vii).

(IV) In the administration of the program under this clause (vii), the Bank shall provide appropriate technical assistance to participating consortia and may require such consortia periodically to furnish information to the Bank regarding the number and amount of loans made and the creditworthiness of the borrowers.

(viii) In order to assure that the policy stated in clause (i) is carried out, the Bank shall promote small business exports and its small business export financing programs in cooperation with the Secretary of Commerce, the Office of International Trade of the Small Business Administration, and the private sector, particularly

[5] Sec. 121(a)(3) of the Export Enhancement Act of 1992 (Public Law 102–429; 106 Stat. 2198) struck out "not less than—(I) 6 per centum of such authority for fiscal year 1984; (II) 8 per centum of such authority for fiscal year 1985; and (III) 10 per centum of such authority for fiscal year 1986 and thereafter.", and inserted in lieu thereof "not less than 10 percent of such authority for each fiscal year.".

small business organizations, State agencies, chambers of commerce, banking organizations, export management companies, export trading companies and private industry.

(ix) The Bank shall provide, through creditworthy trade associations, export trading companies, State export finance companies, export finance cooperatives, and other multiple-exporter organizations, medium-term risk protection coverage for the members and clients of such organizations. Such coverage shall be made available to each such organization under a single risk protection policy covering its members or clients. Nothing in this provision shall be interpreted as limiting the Bank's authority to deny support for specific transactions or to disapprove a request by such an organization to participate in such coverage.

(F) Consistent with international agreements, the Bank shall urge the Foreign Credit Insurance Association to provide coverage against 100 per centum of any loss with respect to exports having a value of less than $100,000.

(G) Participation in or access to long-, medium-, and short-term financing, guarantees, and insurance provided by the Bank shall not be denied solely because the entity seeking participation or access is not a bank or is not a United States person.

(H)[6] (i) It is further the policy of the United States to foster the development of democratic institutions and market economies in countries seeking such development, and to assist the export of high technology items to such countries.

(ii) In exercising its authority, the Bank shall develop a program for providing guarantees and insurance with respect to the export of high technology items to countries making the transition to market based economies, including eligible East European countries (within the meaning of section 4 of the Support For East European Democracy (SEED) Act of 1989).

(iii) As part of the ongoing marketing and outreach efforts of the Bank, the Bank shall, to the maximum extent practicable, inform high technology companies, particularly small business concerns (as such term is defined in section 3 of the Small Business Act), about the programs of the Bank for United States companies interested in exporting high technology goods to countries making the transition to market based economies, including any eligible East European country (within the meaning of section 4 of the Support For East European Democracy (SEED) Act of 1989).

(iv) In carrying out clause (iii), the Bank shall—

(I) work with other agencies involved in export promotion and finance; and

(II) invite State and local governments, trade centers, commercial banks, and other appropriate public and private organizations to serve as intermediaries for the outreach efforts.

[6] Sec. 114 of the Export Enhancement Act of 1992 (Public Law 102–429; 106 Stat. 2195) added subpar. (H).

7. Internal Revenue Code

a. Federal Income Tax Forgiveness for U.S. Military and Civilian Employees Killed Overseas

Partial text of Title 26, United States Code—Internal Revenue Code

Subtitle A—Income Taxes

CHAPTER 1—NORMAL TAXES AND SURTAXES

Subchapter J—Estates, Trusts, Beneficiaries, and Decedents

PART II—INCOME IN RESPECT OF DECEDENTS

* * * * * * *

§ 692. Income taxes on members of Armed Forces on death

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(c) Certain military or civilian employees of the United States dying as a result of injuries sustained overseas

(1) In general

In the case of any individual who dies while a military or civilian employee of the United States, if such death occurs as a result of wounds or injury which was incurred while the individual was a military or civilian employee of the United States and which was incurred outside the United States in a terroristic or military action, any tax imposed by this subtitle shall not apply—

(A) with respect to the taxable year in which falls the date of his death, and

(B) with respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds or injury were incurred.

(2) Terroristic or military action

For purposes of paragraph (1), the term "terroristic or military action" means—

(A) any terroristic activity which a preponderance of the evidence indicates was directed against the United States or any of its allies, and

(B) any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof).

For purposes of the preceding sentence, the term "military action" does not include training exercises.

(3) Treatment of multinational forces

For purposes of paragraph (2), any multinational force in which the United States is participating shall be treated as an ally of the United States.

b. Denial of Foreign Tax Credit

Partial text of Title 26, United States Code—Internal Revenue Code

Subtitle A—Income Taxes

CHAPTER 1—NORMAL TAXES AND SURTAXES

Subchapter N—Tax Based on Income From Sources Within or Without the United States

PART III—INCOME FROM SOURCES WITHIN OR WITHOUT THE UNITED STATES

SUBPART A—FOREIGN TAX CREDIT

§ 901. Taxes of foreign countries and of possessions of United States

* * * * * * *

(j) Denial of foreign tax credit, etc., with respect to certain foreign countries

(1) In general

Notwithstanding any other provision of this part—

(A) no credit shall be allowed under subsection (a) for any income, war profits, or excess profits taxes paid or accrued (or deemed paid under section 902 or 960) to any country if such taxes are with respect to income attributable to a period during which this subsection applies to such country, and

(B) subsections (a), (b), and (c) of section 904 and sections 902 and 960 shall be applied separately with respect to income attributable to such a period from sources within such country.

(2) Countries to which subsection applies

(A) In general

This subsection shall apply to any foreign country—

(i) the government of which the United States does not recognize, unless such government is otherwise eligible to purchase defense articles or services under the Arms Export Control Act,

(ii) with respect to which the United States has severed diplomatic relations,

(iii) with respect to which the United States has not severed diplomatic relations but does not conduct such relations, or

(iv) which the Secretary of State has, pursuant to section 6(j) of the Export Administration Act of 1979, as amended, designated as a foreign country which re-

peatedly provides support for acts of international terrorisms.

(B) Period for which subsection applies

This subsection shall apply to any foreign country described in subparagraph (A) during the period—

(i) beginning on the later of—

(I) January 1, 1987, or

(II) 6 months after such country becomes a country described in subparagraph (A), and

(ii) ending on the date the Secretary of State certifies to the Secretary of the Treasury that such country is no longer described in subparagraph (A).

8. Bretton Woods Agreements Act Amendments, 1978

Partial text of Public Law 95–435 [H.R. 9214], 92 Stat. 1051, approved October 10, 1978, as amended

AN ACT To amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund.

* * * * * * *

SEC. 6.[1] The Secretary of the Treasury shall instruct the Executive Director of the United States to the International Monetary Fund to work in opposition to any extension of financial or technical assistance by the Supplemental Financing Facility or by any other agency or facility of such Fund to any country the government of which—

(1) permits entry into the territory of such country to any person who has committed an act of international terrorism, including any act of aircraft hijacking, or otherwise supports, encourages, or harbors such person; or

(2) fails to take appropriate measures to prevent any such person from committing any such act outside the territory of such country.

* * * * * * *

[1] 22 U.S.C. 286e–11.

9. International Financial Institutions Act

Partial text of Public Law 95–118 [H.R. 5262], 91 Stat. 1067, approved October 3, 1977, as amended

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NOTE.—Except for the provisions noted below, this Act consists of amendments to the Bretton Woods Agreements Act, International Finance Corporation Act, International Development Association Act, Asian Development Bank Act, African Development Fund Act, and the Inter-American Development Bank Act.

AN ACT To provide for increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian 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,

SHORT TITLE

SECTION 1. This Act may be cited as the International Financial Institutions Act.

* * * * * * *

TITLE VII—HUMAN RIGHTS

SEC. 701.[1] (a)[2] The United States Government, in connection with its voice and vote in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, the Asian Development Bank, the African Development Bank, the European Bank for Reconstruction and Development, and the International Monetary

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[1] 22 U.S.C. 262d. Section 701 was invoked in sec. 586G(a)(5) of the Iraq Sanctions Act of 1990, as contained in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 1979 at 2052).

See also secs. 568, 576, and 579 in Title V 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).

[2] Sec. 823(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 512), provided the following:

"(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in section 701(a) of the International Financial Institutions Act (22 U.S.C. 262d(a)) to use the voice and vote of the United States to oppose any use of the institution's funds to promote the acquisition of unsafeguarded special nuclear material or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear-weapon state.".

See also amendment and note at subsec. (b)(3) of this section.

Fund,[3] shall advance the cause of human rights, including by seeking to channel assistance toward countries other than those whose governments engage in—

(1) a pattern of gross violations of internationally recognized human rights, such as torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial to life, liberty, and the security of person; or

(2) provide refuge to individuals committing acts of international terrorism by hijacking aircraft.

* * * * * * *

TITLE XVI—HUMAN WELFARE

* * * * * * *

SEC. 1621.[4] OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.

(a) IN GENERAL.—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 loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

(b) DEFINITION.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund;

(2) wherever applicable, the Inter-American Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund; and

(3) any similar institution established after the date of enactment of this section.

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[3] Reference to the European Bank for Reconstruction and Development and the International Monetary Fund was added by sec. 1008(a) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3361).

[4] 22 U.S.C. 262p–4q. Added by sec. 327 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1257), resulting in two "Sec. 1621".

Similar language had previously been adopted in annual foreign assistance appropriations acts since FY 1988.

10. Inter-American Development Bank Act, as amended

Partial text of Public Law 86–147 [S. 1928], 73 Stat. 299, approved August 7, 1959, as amended

AN ACT To provide for the participation of the United States in the Inter-American Development Bank.

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 "Inter-American Development Bank Act".

* * * * * * *

SEC. 37.[1] (a) The Secretary of the Treasury is authorized to contribute, and to make payment of, $500,000,000 to the Multilateral Investment Fund established pursuant to the agreements of February 11, 1992: *Provided,* That such funds shall only be disbursed from the Fund to countries that have governments that are democratically elected, that do not harbor or sponsor international terrorists; that do not fail to cooperate in narcotics matters; and that do not engage in a consistent pattern of gross violations of internationally recognized human rights.

(b) There is hereby authorized to be appropriated without fiscal year limitation $500,000,000 for the contribution authorized in subsection (a).[2]

* * * * * * *

[1] 22 U.S.C. 283z–9. Added by sec. 594(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391; 106 Stat. 1693).

[2] Appropriations for U.S. contributions authorized in sec. 36(b) have been provided in the following amounts and Public Laws: fiscal year 1993—$90 million (Public Law 102–391); fiscal year 1994—$75 million (Public Law 103–87); fiscal year 1995—75 million (Public Law 103–306); fiscal year 1996—75 million (Public Law 104–107); fiscal year 1997—53.75 million (Public Law 104–208).

F. AVIATION SECURITY

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1. Aviation Programs

Partial text of Title 49, United States Code—Transportation

NOTE.—Public Law 103–272 (108 Stat. 745) repealed several Public Laws relating to transportation, aviation, and airport security, and consolidated their substance into 49 U.S.C.

SUBTITLE VII—AVIATION PROGRAMS

PART A—AIR COMMERCE AND SAFETY

SUBPART I—GENERAL

chapter 401—general provisions

* * * * * * *

§ 40106. Emergency powers

(a) DEVIATIONS FROM REGULATIONS.—Appropriate military authority may authorize aircraft of the armed forces of the United States to deviate from air traffic regulations prescribed under section 40103(b)(1) and (2) of this title when the authority decides the deviation is essential to the national defense because of a military emergency or urgent military necessity. The authority shall—

(1) give the Administrator of the Federal Aviation Administration prior notice of the deviation at the earliest practicable time; and

(2) to the extent time and circumstances allow, make every reasonable effort to consult with the Administrator and arrange for the deviation in advance on a mutually agreeable basis.

(b) SUSPENSION OF AUTHORITY.—(1) When the President decides that the government of a foreign country is acting inconsistently with the Convention for the Suppression of Unlawful Seizure of Aircraft or that the government of a foreign country allows territory under its jurisdiction to be used as a base of operations or training of, or as a sanctuary for, or arms, aids, or abets, a terrorist organization that knowingly uses the unlawful seizure, or the threat of an unlawful seizure, of an aircraft as an instrument of policy, the President may suspend the authority of—

(A) an air carrier or foreign air carrier to provide foreign air transportation to an from that foreign country;

(B) a person to operate aircraft in foreign air commerce to and from that foreign country;

(C) a foreign air carrier to provide foreign air transportation between the United states and another country that maintains air service with the foreign country; and

(D) a foreign person to operate aircraft in foreign air commerce between the United States and another country that maintains air service with the foreign country.

(2) The President may act under this subsection without notice or a hearing. The suspension remains in effect for as long as the President decides is necessary to ensure the security of aircraft against unlawful seizure. Notwithstanding section 40105(b) of this title, the authority of the President to suspend rights under this subsection is a condition to a certificate of public convenience and necessity, air carrier operating certificate, foreign air carrier or foreign aircraft permit, or foreign air carrier operating specification issued by the Secretary of Transportation under this part.

(3) An air carrier or foreign air carrier may not provide foreign air transportation, and a person may not operate aircraft in foreign air commerce, in violation of a suspension of authority under this subsection.

* * * * * * *

SUBPART III—SAFETY

chapter 449—security

SUBCHAPTER I—REQUIREMENTS

§ 44901. Screening passengers and property

(a) GENERAL REQUIREMENTS.—The Administrator of the Federal Aviation Administration shall prescribe regulations requiring screening of all passengers and property that will be carried in a cabin of an aircraft in air transportation or intrastate air transportation. The screening must take place before boarding and be carried out by a weapon-detecting facility or procedure used or operated by an employee or agent of an air carrier, intrastate air carrier, or foreign air carrier.

(b) AMENDING REGULATIONS.—Notwithstanding subsection (a) of this section, the Administrator may amend a regulation prescribed under subsection (a) to require screening only to ensure security against criminal violence and aircraft piracy in air transportation and intrastate air transportation.

(c) EXEMPTIONS AND ADVISING CONGRESS ON REGULATIONS.—The Administrator—

(1) may exempt from this section air transportation operations, except scheduled passenger operations of an air carrier providing air transportation under a certificate issued under section 41102 of this title or a permit issued under section 41302 of this title; and

(2) shall advise Congress of a regulation to be prescribed under this section at least 30 days before the effective date of the regulation, unless the Administrator decides an emergency

exists requiring the regulation to become effective in fewer than 30 days and notifies Congress of that decision.

§ 44902. Refusal to transport passengers and property

(a) MANDATORY REFUSAL.—The Administrator of the Federal Aviation Administration shall prescribe regulations requiring an air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

(1) a passenger who does not consent to a search under section 44901(a) of this title establishing whether the passenger is carrying unlawfully a dangerous weapon, explosive, or other destructive substance; or

(2) property of a passenger who does not consent to a search of the property establishing whether the property unlawfully contains a dangerous weapon, explosive, or other destructive substance.

(b) PERMISSIVE REFUSAL.—Subject to regulations of the Administrator, an air carrier, intrastate air carrier, or foreign air carrier may refuse to transport a passenger or property the carrier decides is, or might be, inimical to safety.

(c) AGREEING TO CONSENT TO SEARCH.—An agreement to carry passengers or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier is deemed to include an agreement that the passenger or property will not be carried if consent to search the passenger or property for a purpose referred to in this section is not given.

§ 44903. Air transportation security

(a) DEFINITION.—In this section, "law enforcement personnel" means individuals—

(1) authorized to carry and use firearms;

(2) vested with the degree of the police power of arrest the Administrator of the Federal Aviation Administration considers necessary to carry out this section; and

(3) identifiable by appropriate indicia of authority.

(b) PROTECTION AGAINST VIOLENCE AND PIRACY.—The Administrator shall prescribe regulations to protect passengers and property on an aircraft operating in air transportation or intrastate air transportation against an act of criminal violence or aircraft piracy. When prescribing a regulation under this subsection, the Administrator shall—

(1) consult with the Secretary of Transportation, the Attorney General, the heads of other departments, agencies, and instrumentalities of the United States Government, and State and local authorities;

(2) consider whether a proposed regulation is consistent with—

(A) protecting passengers; and

(B) the public interest in promoting air transportation and intrastate air transportation;

(3) to the maximum extent practicable, require a uniform procedure for searching and detaining passengers and property to ensure—

(A) their safety; and

(B) courteous and efficient treatment by an air carrier, an agent or employee of an air carrier, and Government, State, and local law enforcement personnel carrying out this section; and

(4) consider the extent to which a proposed regulation will carry out this section.

(c) SECURITY PROGRAMS.—(1) The Administrator shall prescribe regulations under subsection (b) of this section that require each operator of an airport regularly serving an air carrier holding a certificate issued by the Secretary of Transportation to establish an air transportation security program that provides a law enforcement presence and capability at each of those airports that is adequate to ensure the safety of passengers. The regulations shall authorize the operator to use the services of qualified State, local, and private law enforcement personnel. When the Administrator decides, after being notified by an operator in the form the Administrator prescribes, that not enough qualified State, local, and private law enforcement personnel are available to carry out subsection (b), the Administrator may authorize the operator to use, on a reimbursable basis, personnel employed by the Administrator, or by another department, agency, or instrumentality of the Government with the consent of the head of the department, agency, or instrumentality, to supplement State, local, and private law enforcement personnel. When deciding whether additional personnel are needed, the Administrator shall consider the number of passengers boarded at the airport, the extent of anticipated risk of criminal violence or aircraft piracy at the airport or to the air carrier aircraft operations at the airport, and the availability of qualified State or local law enforcement personnel at the airport.

(2)(A) The Administrator may approve a security program of an airport operator, or an amendment in an existing program, that incorporates a security program of an airport tenant (except an air carrier separately complying with part 108 or 129 of title 14, Code of Federal Regulations) having access to a secured area of the airport, if the program or amendment incorporates—

(i) the measures the tenant will use, within the tenant's leased areas or areas designated for the tenant's exclusive use under an agreement with the airport operator, to carry out the security requirements imposed by the Administrator on the airport operator under the access control system requirements of section 107.14 of title 14, Code of Federal Regulations, or under other requirements of part 107 of title 14; and

(ii) the methods the airport operator will use to monitor and audit the tenant's compliance with the security requirements and provides that the tenant will be required to pay monetary penalties to the airport operator if the tenant fails to carry out a security requirement under a contractual provision or requirement imposed by the airport operator.

(B) If the Administrator approves a program or amendment described in subparagraph (A) of this paragraph, the airport operator may not be found to be in violation of a requirement of this subsection or subsection (b) of this section when the airport operator demonstrates that the tenant or an employee, permittee, or invitee of the tenant is responsible for the violation and that the airport

operator has complied with all measures in its security program for securing compliance with its security program by the tenant.

(d) AUTHORIZING INDIVIDUALS TO CARRY FIREARMS AND MAKE ARRESTS.—With the approval of the Attorney General and the Secretary of State, the Secretary of Transportation may authorize an individual who carries out air transportation security duties—

(1) to carry firearms; and

(2) to make arrests without warrant for an offense against the United States committed in the presence of the individual or for a felony under the laws of the United States, if the individual reasonably believes the individual to be arrested has committed or is committing a felony.

(e) EXCLUSIVE RESPONSIBILITY OVER PASSENGER SAFETY.—The Administrator has the exclusive responsibility to direct law enforcement activity related to the safety of passengers on an aircraft involved in an offense under section 46502 of this title from the moment all external doors of the aircraft are closed following boarding until those doors are opened to allow passengers to leave the aircraft. When requested by the Administrator, other departments, agencies, and instrumentalities of the Government shall provide assistance necessary to carry out this subsection.

§ 44904. Domestic air transportation system security

(a) ASSESSING THREATS.—The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation jointly shall assess current and potential threats to the domestic air transportation system. The assessment shall include consideration of the extent to which there are individuals with the capability and intent to carry out terrorist or related unlawful acts against that system and the ways in which those individuals might carry out those acts. The Administrator and the Director jointly shall decide on and carry out the most effective method for continuous analysis and monitoring of security threats to that system.

(b) ASSESSING SECURITY.—In coordination with the Director, the Administrator shall carry out periodic threat and vulnerability assessments on security at each airport that is part of the domestic air transportation system. Each assessment shall include consideration of—

(1) the adequacy of security procedures related to the handling and transportation of checked baggage and cargo;

(2) space requirements for security personnel and equipment;

(3) separation of screened and unscreened passengers, baggage, and cargo;

(4) separation of the controlled and uncontrolled areas of airport facilities; and

(5) coordination of the activities of security personnel of the Administration, the United States Customs Service, the Immigration and Naturalization Service, and air carriers, and of other law enforcement personnel.

(c) IMPROVING SECURITY.—The Administrator shall take necessary actions to improve domestic air transportation security by correcting any deficiencies in that security discovered in the assessments, analyses, and monitoring carried out under this section.

§ 44905. Information about threats to civil aviation

(a) PROVIDING INFORMATION.—Under guidelines the Secretary of Transportation prescribes, an air carrier, airport operator, ticket agent, or individual employed by an air carrier, airport operator, or ticket agent, receiving information (except a communication directed by the United States Government) about a threat to civil aviation shall provide the information promptly to the Secretary.

(b) FLIGHT CANCELLATION.—If a decision is made that a particular threat cannot be addressed in a way adequate to ensure, to the extent feasible, the safety of passengers and crew of a particular flight or series of flights, the Administrator of the Federal Aviation Administration shall cancel the flight or series of flights.

(c) GUIDELINES ON PUBLIC NOTICE.—(1) The President shall develop guidelines for ensuring that public notice is provided in appropriate cases about threats to civil aviation. The guidelines shall identify officials responsible for—

(A) deciding, on a case-by-case basis, if public notice of a threat is in the best interest of the United States and the traveling public;

(B) ensuring that public notice is provided in a timely and effective way, including the use of a toll-free telephone number; and

(C) canceling the departure of a flight or series of flights under subsection (b) of this section.

(2) The guidelines shall provide for consideration of—

(A) the specificity of the threat;

(B) the credibility of intelligence information related to the threat;

(C) the ability to counter the threat effectively;

(D) the protection of intelligence information sources and methods;

(E) cancellation, by an air carrier or the Administrator, of a flight or series of flights instead of public notice;

(F) the ability of passengers and crew to take steps to reduce the risk to their safety after receiving public notice of a threat; and

(G) other factors the Administrator considers appropriate.

(d) GUIDELINES ON NOTICE TO CREWS.—The Administrator shall develop guidelines for ensuring that notice in appropriate cases of threats to the security of an air carrier flight is provided to the flight crew and cabin crew of that flight.

(e) LIMITATION ON NOTICE TO SELECTIVE TRAVELERS.—Notice of a threat to civil aviation may be provided to selective potential travelers only if the threat applies only to those travelers.

(f) RESTRICTING ACCESS TO INFORMATION.—In cooperation with the departments, agencies, and instrumentalities of the Government that collect, receive, and analyze intelligence information related to aviation security, the Administrator shall develop procedures to minimize the number of individuals who have access to information about threats. However, a restriction on access to that information may be imposed only if the restriction does not diminish the ability of the Government to carry out its duties and powers related to aviation security effectively, including providing notice to the public and flight and cabin crews under this section.

(g) DISTRIBUTION OF GUIDELINES.—The guidelines developed under this section shall be distributed for use by appropriate officials of the Department of Transportation, the Department of State, the Department of Justice, and air carriers.

§ 44906.[1] Foreign air carrier security programs

The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Administrator. The Administrator shall not approve a security program of a foreign air carrier under section 129.25, or any successor regulation, unless the security program requires the foreign air carrier in its operations to and from airports in the United States to adhere to the identical security measures that the Administrator requires air carriers serving the same airports to adhere to. The foregoing requirement shall not be interpreted to limit the ability of the Administrator to impose additional security measures on a foreign air carrier or an air carrier when the Administrator determines that a specific threat warrants such additional measures. The Administrator shall prescribe regulations to carry out this section.

§ Sec. 44907. Security standards at foreign airports

(a) ASSESSMENT.—(1) At intervals the Secretary of Transportation considers necessary, the Secretary shall assess the effectiveness of the security measures maintained at—

(A) a foreign airport—

(i) served by an air carrier;

(ii) from which a foreign air carrier serves the United States; or

(iii) that poses a high risk of introducing danger to international air travel; and

(B) other foreign airports the Secretary considers appropriate.

(2) The Secretary of Transportation shall conduct an assessment under paragraph (1) of this subsection—

(A) in consultation with appropriate aeronautic authorities of the government of a foreign country concerned and each air carrier serving the foreign airport for which the Secretary is conducting the assessment;

(B) to establish the extent to which a foreign airport effectively maintains and carries out security measures; and

(C) by using a standard that will result in an analysis of the security measures at the airport based at least on the standards and appropriate recommended practices contained in Annex 17 to the Convention on International Civil Aviation in effect on the date of the assessment.

(3) Each report to Congress required under section 44938(b) of this title shall contain a summary of the assessments conducted under this subsection.

[1] Sec. 322 of Public Law 104–132 (110 Stat. 1254) amended and restated sec. 44906.

(b) CONSULTATION.—In carrying out subsection (a) of this section, the Secretary of Transportation shall consult with the Secretary of State—

(1) on the terrorist threat that exists in each country; and

(2) to establish which foreign airports are not under the de facto control of the government of the foreign country in which they are located and pose a high risk of introducing danger to international air travel.

(c) NOTIFYING FOREIGN AUTHORITIES.—When the Secretary of Transportation, after conducting an assessment under subsection (a) of this section, decides that an airport does not maintain and carry out effective security measures, the Secretary of Transportation, after advising the Secretary of State, shall notify the appropriate authorities of the government of the foreign country of the decision and recommend the steps necessary to bring the security measures in use at the airport up to the standard used by the Secretary of Transportation in making the assessment.

(d) ACTIONS WHEN AIRPORTS NOT MAINTAINING AND CARRYING OUT EFFECTIVE SECURITY MEASURES.—(1) When the Secretary of Transportation decides under this section that an airport does not maintain and carry out effective security measures—

(A) the Secretary of Transportation shall—

(i) publish the identity of the airport in the Federal Register;

(ii) have the identity of the airport posted and displayed prominently at all United States airports at which scheduled air carrier operations are provided regularly; and

(iii) notify the news media of the identity of the airport;

(B) each air carrier and foreign air carrier providing transportation between the United States and the airport shall provide written notice of the decision, on or with the ticket, to each passenger buying a ticket for transportation between the United States and the airport;

(C) notwithstanding section 40105(b) of this title, the Secretary of Transportation, after consulting with the appropriate aeronautic authorities of the foreign country concerned and each air carrier serving the airport and with the approval of the Secretary of State, may withhold, revoke, or prescribe conditions on the operating authority of an air carrier or foreign air carrier that uses that airport to provide foreign air transportation; and

(D) the President may prohibit an air carrier or foreign air carrier from providing transportation between the United States and any other foreign airport that is served by aircraft flying to or from the airport with respect to which a decision is made under this section.

(2)(A) Paragraph (1) of this subsection becomes effective—

(i) 90 days after the government of a foreign country is notified under subsection (c) of this section if the Secretary of Transportation finds that the government has not brought the security measures at the airport up to the standard the Secretary used in making an assessment under subsection (a) of this section; or

(ii) immediately on the decision of the Secretary of Transportation under subsection (c) of this section if the Secretary of Transportation decides, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from the airport.

(B) The Secretary of Transportation immediately shall notify the Secretary of State of a decision under subparagraph (A)(ii) of this paragraph so that the Secretary of State may issue a travel advisory required under section 44908(a) of this title.

(3) The Secretary of Transportation promptly shall submit to Congress a report (and classified annex if necessary) on action taken under paragraph (1) or (2) of this subsection, including information on attempts made to obtain the cooperation of the government of a foreign country in meeting the standard the Secretary used in assessing the airport under subsection (a) of this section.

(4) An action required under paragraph (1)(A) and (B) of this subsection is no longer required only if the Secretary of Transportation, in consultation with the Secretary of State, decides that effective security measures are maintained and carried out at the airport. The Secretary of Transportation shall notify Congress when the action is no longer required to be taken.

(e) SUSPENSIONS.—Notwithstanding sections 40105(b) and 40106(b) of this title, the Secretary of Transportation, with the approval of the Secretary of State and without notice or a hearing, shall suspend the right of an air carrier or foreign air carrier to provide foreign air transportation, and the right of a person to operate aircraft in foreign air commerce, to or from a foreign airport when the Secretary of Transportation decides that—

(1) a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from that airport; and

(2) the public interest requires an immediate suspension of transportation between the United States and that airport.

(f) CONDITION OF CARRIER AUTHORITY.—This section is a condition to authority the Secretary of Transportation grants under this part to an air carrier or foreign air carrier.

§ 44908. Travel advisory and suspension of foreign assistance

(a) TRAVEL ADVISORIES.—On being notified by the Secretary of Transportation that the Secretary of Transportation has decided under section 44907(d)(2)(A)(ii) of this title that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from a foreign airport that the Secretary of Transportation has decided under section 44907 of this title does not maintain and carry out effective security measures, the Secretary of State—

(1) immediately shall issue a travel advisory for that airport;

(2) shall publish the advisory in the Federal Register; and

(3) shall publicize the advisory widely.

(b) SUSPENDED ASSISTANCE.—The President shall suspend assistance provided under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or the Arms Export Control Act (22 U.S.C. 2751 et

seq.) to a country in which is located an airport with respect to which section 44907(d)(1) of this title becomes effective if the Secretary of State decides the country is a high terrorist threat country. The President may waive this subsection if the President decides, and reports to Congress, that the waiver is required because of national security interests or a humanitarian emergency.

(c) Actions No Longer Required.—An action required under this section is no longer required only if the Secretary of Transportation has made a decision as provided under section 44907(d)(4) of this title. The Secretary shall notify Congress when the action is no longer required to be taken.

§ 44910. Agreements on aircraft sabotage, aircraft hijacking, and airport security

The Secretary of State shall seek multilateral and bilateral agreement on strengthening enforcement measures and standards for compliance related to aircraft sabotage, aircraft hijacking, and airport security.

§ 44911. Intelligence

(a) DEFINITION.—In this section, "intelligence community" means the intelligence and intelligence-related activities of the following units of the United States Government:

(1) the Department of State.
(2) the Department of Defense.
(3) the Department of the Treasury.
(4) the Department of Energy.
(5) the Departments of the Army, Navy, and Air Force.
(6) the Central Intelligence Agency.
(7) the National Security Agency.
(8) the Defense Intelligence Agency.
(9) the Federal Bureau of Investigation.
(10) the Drug Enforcement Administration.

(b) POLICIES AND PROCEDURES ON REPORT AVAILABILITY.—The head of each unit in the intelligence community shall prescribe policies and procedures to ensure that intelligence reports about international terrorism are made available, as appropriate, to the heads of other units in the intelligence community, the Secretary of Transportation, and the Administrator of the Federal Aviation Administration.

(c) UNIT FOR STRATEGIC PLANNING ON TERRORISM.—The heads of the units in the intelligence community shall consider placing greater emphasis on strategic intelligence efforts by establishing a unit for strategic planning on terrorism.

(d) DESIGNATION OF INTELLIGENCE OFFICER.—At the request of the Secretary, the Director of Central Intelligence shall designate at least one intelligence officer of the Central Intelligence Agency to serve in a senior position in the Office of the Secretary.

(e) WRITTEN WORKING AGREEMENTS.—The heads of units in the intelligence community, the Secretary, and the Administrator shall review and, as appropriate, revise written working agreements between the intelligence community and the Administrator.

§ 44912. Research and development

(a) PROGRAM REQUIREMENT.—(1) The Administrator of the Federal Aviation Administration shall establish and carry out a program to accelerate and expand the research, development, and implementation of technologies and procedures to counteract terrorist acts against civil aviation. The program shall provide for developing and having in place, not later than November 16, 1993, new equipment and procedures necessary to meet the technological challenges presented by terrorism. The program shall include research on, and development of, technological improvements and ways to enhance human performance.

(2) In designing and carrying out the program established under this subsection, the Administrator shall—

(A) consult and coordinate activities with other departments, agencies, and instrumentalities of the United States Government doing similar research;

(B) identify departments, agencies, and instrumentalities that would benefit from that research; and

(C) seek cost-sharing agreements with those departments, agencies, and instrumentalities.

(3) In carrying out the program established under this subsection, the Administrator shall review and consider the annual reports the Secretary of Transportation submits to Congress on transportation security and intelligence.

(4) The Administrator may—

(A) make grants to institutions of higher learning and other appropriate research facilities with demonstrated ability to carry out research described in paragraph (1) of this subsection, and fix the amounts and terms of the grants; and

(B) make cooperative agreements with governmental authorities the Administrator decides are appropriate.

(b) REVIEW OF THREATS.—(1) The Administrator shall complete an intensive review of threats to civil aviation, with particular focus on—

(A) explosive material that presents the most significant threat to civil aircraft;

(B) the minimum amounts, configurations, and types of explosive material that can cause, or would reasonably be expected to cause, catastrophic damage to commercial aircraft in service and expected to be in service in the 10–year period beginning on November 16, 1990;

(C) the amounts, configurations, and types of explosive material that can be detected reliably by existing, or reasonably anticipated, near-term explosive detection technologies;

(D) the feasibility of using various ways to minimize damage caused by explosive material that cannot be detected reliably by existing, or reasonably anticipated, near-term explosive detection technologies;

(E) the ability to screen passengers, carry-on baggage, checked baggage, and cargo; and

(F) the technologies that might be used in the future to attempt to destroy or otherwise threaten commercial aircraft and the way in which those technologies can be countered effectively.

(2) The Administrator shall use the results of the review under this subsection to develop the focus and priorities of the program established under subsection (a) of this section.

(c) SCIENTIFIC ADVISORY PANEL.—The Administrator shall establish a scientific advisory panel, as a subcommittee of the Research, Engineering and Development Advisory Committee, to review, comment on, advise on the progress of, and recommend modifications in, the program established under subsection (a) of this section, including the need for long-range research programs to detect and prevent catastrophic damage to commercial aircraft by the next generation of terrorist weapons. The panel shall consist of individuals with scientific and technical expertise in—

(1) the development and testing of effective explosive detection systems;

(2) aircraft structure and experimentation to decide on the type and minimum weights of explosives that an effective technology must be capable of detecting;

(3) technologies involved in minimizing airframe damage to aircraft from explosives; and

(4) other scientific and technical areas the Administrator considers appropriate.

§ 44913. Explosive detection

(a) DEPLOYMENT AND PURCHASE OF EQUIPMENT.—(1) A deployment or purchase of explosive detection equipment under section 108.7(b)(8) or 108.20 of title 14, Code of Federal Regulations, or similar regulation is required only if the Administrator of the Federal Aviation Administration certifies that the equipment alone, or as part of an integrated system, can detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft. The Administrator shall base the certification on the results of tests conducted under protocols developed in consultation with expert scientists outside of the Administration. Those tests shall be completed not later than April 16, 1992.

(2) Before completion of the tests described in paragraph (1) of this subsection, but not later than April 16, 1992, the Administrator may require deployment of explosive detection equipment described in paragraph (1) if the Administrator decides that deployment will enhance aviation security significantly. In making that decision, the Administrator shall consider factors such as the ability of the equipment alone, or as part of an integrated system, to detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft. The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure[2] of the House of Representatives of a deployment decision made under this paragraph.

[2] Sec. 5(9) of Public Law 104–287 (110 Stat. 3389) struck out "Public Works and Transportation" and inserted in lieu thereof "Transportation and Infrastructure".

(3)[3] Until such time as the Administrator determines that equipment certified under paragraph (1) is commercially available and has successfully completed operational testing as provided in paragraph (1), the Administrator shall facilitate the deployment of such approved commercially available explosive detection devices as the Administrator determines will enhance aviation security significantly. The Administrator shall require that equipment deployed under this paragraph be replaced by equipment certified under paragraph (1) when equipment certified under paragraph (1) becomes commercially available. The Administrator is authorized , based on operational considerations at individual airports, to waive the required installation of commercially available equipment under paragraph (1) in the interests of aviation security. The Administrator may permit the requirements of this paragraph to be met at airports by the deployment of dogs or other appropriate animals to supplement equipment for screening passengers, baggage, mail, or cargo for explosives or weapons.

(4)[3] This subsection does not prohibit the Administrator from purchasing or deploying explosive detection equipment described in paragraph (1) of this subsection.

(b) GRANTS.—The Secretary of Transportation may provide grants to continue the Explosive Detection K–9 Team Training Program to detect explosives at airports and on aircraft.

§ 44914. Airport construction guidelines

In consultation with air carriers, airport authorities, and others the Administrator of the Federal Aviation Administration considers appropriate, the Administrator shall develop guidelines for airport design and construction to allow for maximum security enhancement. In developing the guidelines, the Administrator shall consider the results of the assessment carried out under section 44904(a) of this title.

§ 44915. Exemptions

The Administrator of the Federal Aviation Administration may exempt from sections 44901, 44903(a)–(c) and (e), 44906, 44935, and 44936 of this title airports in Alaska served only by air carriers that—

(1) hold certificates issued under section 41102 of this title;

(2) operate aircraft with certificates for a maximum gross takeoff weight of less than 12,500 pounds; and

(3) board passengers, or load property intended to be carried in an aircraft cabin, that will be screened under section 44901 of this title at another airport in Alaska before the passengers board, or the property is loaded on, an aircraft for a place outside Alaska.

§ 44916.[4] Assessments and evaluations

(a) PERIODIC ASSESSMENTS.—The Administrator shall require each air carrier and airport (including the airport owner or operator in cooperation with the air carriers and vendors serving each

[3] Sec. 305(a) of Public Law 104–264 (110 Stat. 3252) redesignated para. (3) as para. (4), and added a new para. (3).

[4] Sec. 312(a) of Public Law 104–264 (110 Stat. 3254) added sec. 44916.

airport) that provides for intrastate, interstate, or foreign air transportation to conduct periodic vulnerability assessments of the security systems of that air carrier or airport, respectively. The Administration shall perform periodic audits of such assessments.

(b) INVESTIGATIONS.—The Administrator shall conduct periodic and unannounced inspections of security systems of airports and air carriers to determine the effectiveness and vulnerabilities of such systems. To the extent allowable by law, the Administrator may provide for anonymous tests of those security systems.

SUBCHAPTER II—ADMINISTRATION AND PERSONNEL

§ 44931. Director of Intelligence and Security

(a) ORGANIZATION.—There is in the Office of the Secretary of Transportation a Director of Intelligence and Security. The Director reports directly to the Secretary.

(b) DUTIES AND POWERS.—The Director shall—

(1) receive, assess, and distribute intelligence information related to long-term transportation security;

(2) develop policies, strategies, and plans for dealing with threats to transportation security;

(3) make other plans related to transportation security, including coordinating countermeasures with appropriate departments, agencies, and instrumentalities of the United States Government;

(4) serve as the primary liaison of the Secretary to the intelligence and law enforcement communities; and

(5) carry out other duties and powers the Secretary decides are necessary to ensure, to the extent possible, the security of the traveling public.

§ 44932. Assistant Administrator for Civil Aviation Security

(a) ORGANIZATION.—There is an Assistant Administrator for Civil Aviation Security. The Assistant Administrator reports directly to the Administrator of the Federal Aviation Administration and is subject to the authority of the Administrator.

(b) DUTIES AND POWERS.—The Assistant Administrator shall—

(1) on a day-to-day basis, manage and provide operational guidance to the field security resources of the Administration, including Federal Security Managers as provided by section 44933 of this title;

(2) enforce security-related requirements;

(3) identify the research and development requirements of security-related activities;

(4) inspect security systems;

(5) report information to the Director of Intelligence and Security that may be necessary to allow the Director to carry out assigned duties and powers;

(6) assess threats to civil aviation; and

(7) carry out other duties and powers the Administrator considers appropriate.

(c) REVIEW AND DEVELOPMENT OF WAYS TO STRENGTHEN SECURITY.—The Assistant Administrator shall review and, as necessary,

develop ways to strengthen air transportation security, including ways—

(1) to strengthen controls over checked baggage in air transportation, including ways to ensure baggage reconciliation and inspection of items in passenger baggage that could potentially contain explosive devices;

(2) to strengthen control over individuals having access to aircraft;

(3) to improve testing of security systems;

(4) to ensure the use of the best available x-ray equipment for air transportation security purposes; and

(5) to strengthen preflight screening of passengers.

§ 44933. Federal Security Managers

(a) ESTABLISHMENT, DESIGNATION, AND STATIONING.—The Administrator of the Federal Aviation Administration shall establish the position of Federal Security Manager at each airport in the United States at which the Administrator decides a Manager is necessary for air transportation security. The Administrator shall designate individuals as Managers for, and station those Managers at, those airports. The Administrator may designate a current field employee of the Administration as a Manager. A Manager reports directly to the Assistant Administrator for Civil Aviation Security. The Administrator shall station an individual as Manager at each airport in the United States that the Secretary of Transportation designates as a category X airport.

(b) DUTIES AND POWERS.—The Manager at each airport shall—

(1) receive intelligence information related to aviation security;

(2) ensure, and assist in, the development of a comprehensive security plan for the airport that—

(A) establishes the responsibilities of each air carrier and airport operator for air transportation security at the airport; and

(B) includes measures to be taken during periods of normal airport operations and during periods when the Manager decides that there is a need for additional airport security, and identifies the individuals responsible for carrying out those measures;

(3) oversee and enforce the carrying out by air carriers and airport operators of United States Government security requirements, including the security plan under clause (2) of this subsection;

(4) serve as the on-site coordinator of the Administrator's response to terrorist incidents and threats at the airport;

(5) coordinate the day-to-day Government aviation security activities at the airport;

(6) coordinate efforts related to aviation security with local law enforcement; and

(7) coordinate activities with other Managers.

(c) LIMITATION.—A Civil Aviation Security Field Officer may not be assigned security duties and powers at an airport having a Manager.

§ 44934. Foreign Security Liaison Officers

(a) ESTABLISHMENT, DESIGNATION, AND STATIONING.—The Administrator of the Federal Aviation Administration shall establish the position of Foreign Security Liaison Officer for each airport outside the United States at which the Administrator decides an Officer is necessary for air transportation security. In coordination with the Secretary of State, the Administrator shall designate an Officer for each of those airports. In coordination with the Secretary, the Administrator shall designate an Officer for each of those airports where extraordinary security measures are in place. The Secretary shall give high priority to stationing those Officers.

(b) DUTIES AND POWERS.—An Officer reports directly to the Assistant Administrator for Civil Aviation Security. The Officer at each airport shall—

(1) serve as the liaison of the Assistant Administrator to foreign security authorities (including governments of foreign countries and foreign airport authorities) in carrying out United States Government security requirements at that airport; and

(2) to the extent practicable, carry out duties and powers referred to in section 44933(b) of this title.

(c) COORDINATION OF ACTIVITIES.—The activities of each Officer shall be coordinated with the chief of the diplomatic mission of the United States to which the Officer is assigned. Activities of an Officer under this section shall be consistent with the duties and powers of the Secretary and the chief of mission to a foreign country under section 103 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4802) and section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

§ 44935. Employment standards and training

(a) EMPLOYMENT STANDARDS.—The Administrator of the Federal Aviation Administration shall prescribe standards for the employment and continued employment of, and contracting for, air carrier personnel and, as appropriate, airport security personnel. The standards shall include—

(1) minimum training requirements for new employees;

(2) retraining requirements;

(3) minimum staffing levels;

(4) minimum language skills; and

(5) minimum education levels for employees, when appropriate.

(b) REVIEW AND RECOMMENDATIONS.—In coordination with air carriers, airport operators, and other interested persons, the Administrator shall review issues related to human performance in the aviation security system to maximize that performance. When the review is completed, the Administrator shall recommend guidelines and prescribe appropriate changes in existing procedures to improve that performance.

(c) SECURITY PROGRAM TRAINING, STANDARDS, AND QUALIFICATIONS.—(1) The Administrator—

(A) may train individuals employed to carry out a security program under section 44903(c) of this title; and

(B) shall prescribe uniform training standards and uniform minimum qualifications for individuals eligible for that training.

(2) The Administrator may authorize reimbursement for travel, transportation, and subsistence expenses for security training of non-United States Government domestic and foreign individuals whose services will contribute significantly to carrying out civil aviation security programs. To the extent practicable, air travel reimbursed under this paragraph shall be on air carriers.

(d) EDUCATION AND TRAINING STANDARDS FOR SECURITY COORDINATORS, SUPERVISORY PERSONNEL, AND PILOTS.—(1) The Administrator shall prescribe standards for educating and training—

(A) ground security coordinators;

(B) security supervisory personnel; and

(C) airline pilots as in-flight security coordinators.

(2) The standards shall include initial training, retraining, and continuing education requirements and methods. Those requirements and methods shall be used annually to measure the performance of ground security coordinators and security supervisory personnel.

§ 44936. Employment investigations and restrictions

(a) EMPLOYMENT INVESTIGATION REQUIREMENT.—(1)(A)[5] The Administrator of the Federal Aviation Administration shall require by regulation that an employment investigation, including a criminal history record check, shall be conducted, as the Administrator decides is necessary to ensure air transportation security, of each individual employed in, or applying for, a position in which the individual has unescorted access, or may permit other individuals to have unescorted access, to—

(i) aircraft of an air carrier or foreign air carrier; or

(ii) a secured area of an airport in the United States the Administrator designates that serves an air carrier or foreign air carrier.

(B) The Administrator shall require by regulation that an employment investigation (including a criminal history record check in any case described in subparagraph (C)) be conducted for—

(i) individuals who will be responsible for screening passengers or property under section 44901 of this title;

(ii) supervisors of the individuals described in clause (i); and

(iii) such other individuals who exercise security functions associated with baggage or cargo, as the Administrator determines is necessary to ensure air transportation security.

(C) Under the regulations issued under subparagraph (B), a criminal history record check shall be conducted in any case in which—

(i) an employment investigation reveals a gap in employment of 12 months or more that the individual who is the subject of the investigation does not satisfactorily account for;

(ii) such individual is unable to support statements made on the application of such individual;

[5] Sec. 304(a) of Public Law 104–264 (110 Stat. 3251) redesignated subparas. (A) and (B) as clauses (i) and (ii), added new subpara. designation (A) in para. (1), and added a new subparas. (B), (C), and (D).

(iii) there are significant inconsistencies in the information provided on the application of such individual; or

(iv) information becomes available during the employment investigation indicating a possible conviction for one of the crimes listed in subsection (b)(1)(B).

(D) If an individual requires a criminal history record check under subparagraph (C), the individual may be employed as a screener until the check is completed if the individual is subject to supervision.

(2) An air carrier, foreign air carrier, or airport operator that employs, or authorizes or makes a contract for the services of, an individual in a position described in paragraph (1) of this subsection shall ensure that the investigation the Administrator requires is conducted.

(3)[6] The Administrator shall provide for the periodic audit of the effectiveness of criminal history record checks conducted under paragraph (1) of this subsection.

(b) PROHIBITED EMPLOYMENT.—(1) Except as provided in paragraph (3) of this subsection, an air carrier, foreign air carrier, or airport operator may not employ, or authorize or make a contract for the services of, an individual in a position described in subsection (a)(1) of this section if—

(A) the investigation of the individual required under this section has not been conducted; or

(B) the results of that investigation establish that, in the 10-year period ending on the date of the investigation, the individual was convicted of—

(i) a crime referred to in section 46306, 46308, 46312, 46314, or 46315 or chapter 465 of this title or section 32 of title 18;

(ii) murder;

(iii) assault with intent to murder;

(iv) espionage;

(v) sedition;

(vi) treason;

(vii) rape;

(viii) kidnapping;

(ix) unlawful possession, sale, distribution, or manufacture of an explosive or weapon;

(x) extortion;

(xi) armed robbery;

(xii) distribution of, or intent to distribute, a controlled substance; or

(xiii) conspiracy to commit any of the acts referred to in clauses (i)–(xii) of this paragraph.

(2) The Administrator may specify other factors that are sufficient to prohibit the employment of an individual in a position described in subsection (a)(1) of this section.

(3) An air carrier, foreign air carrier, or airport operator may employ, or authorize or contract for the services of, an individual in a position described in subsection (a)(1) of this section without carrying out the investigation required under this section, if the Ad-

[6] Sec. 306 of Public Law 104–264 (110 Stat. 3252) added para. (3).

ministrator approves a plan to employ the individual that provides alternate security arrangements.

(c) FINGERPRINTING AND RECORD CHECK INFORMATION.—(1) If the Administrator requires an identification and criminal history record check, to be conducted by the Attorney General, as part of an investigation under this section, the Administrator shall designate an individual to obtain fingerprints and submit those fingerprints to the Attorney General. The Attorney General may make the results of a check available to an individual the Administrator designates. Before designating an individual to obtain and submit fingerprints or receive results of a check, the Administrator shall consult with the Attorney General.

(2) The Administrator shall prescribe regulations on—

(A) procedures for taking fingerprints; and

(B) requirements for using information received from the Attorney General under paragraph (1) of this subsection—

(i) to limit the dissemination of the information; and

(ii) to ensure that the information is used only to carry out this section.

(3) If an identification and criminal history record check is conducted as part of an investigation of an individual under this section, the individual—

(A) shall receive a copy of any record received from the Attorney General; and

(B) may complete and correct the information contained in the check before a final employment decision is made based on the check.

(d) FEES AND CHARGES.—The Administrator and the Attorney General shall establish reasonable fees and charges to pay expenses incurred in carrying out this section. The employer of the individual being investigated shall pay the costs of a record check of the individual. Money collected under this section shall be credited to the account in the Treasury from which the expenses were incurred and are available to the Administrator and the Attorney General for those expenses.

(e) WHEN INVESTIGATION OR RECORD CHECK NOT REQUIRED.—This section does not require an investigation or record check when the investigation or record check is prohibited by a law of a foreign country.

(f)[7] RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.—

(1) IN GENERAL.—Before hiring an individual as a pilot, an air carrier shall request and receive the following information:

(A) FAA RECORDS.—From the Administrator of the Federal Aviation Administration, records pertaining to the individual that are maintained by the Administrator concerning—

(i) current airman certificates (including airman medical certificates) and associated type ratings, including any limitations to those certificates and ratings; and

(ii) summaries of legal enforcement actions resulting in a finding by the Administrator of a violation of this

[7] Sec. 502(a) of Public Law 104–264 (110 Stat. 3259) added subsecs. (f) through (h).

title or a regulation prescribed or order issued under this title that was not subsequently overturned.

(B) AIR CARRIER AND OTHER RECORDS.—From any air carrier or other person that has employed the individual at any time during the 5–year period preceding the date of the employment application of the individual, or from the trustee in bankruptcy for such air carrier or person—

(i) records pertaining to the individual that are maintained by an air carrier (other than records relating to flight time, duty time, or rest time) under regulations set forth in—

(I) section 121.683 of title 14, Code of Federal Regulations;

(II) paragraph (A) of section VI, appendix I, part 121 of such title;

(III) paragraph (A) of section IV, appendix J, part 121 of such title;

(IV) section 125.401 of such title; and

(V) section 135.63(a)(4) of such title; and

(ii) other records pertaining to the individual that are maintained by the air carrier or person concerning—

(I) the training, qualifications, proficiency, or professional competence of the individual, including comments and evaluations made by a check airman designated in accordance with section 121.411, 125.295, or 135.337 of such title;

(II) any disciplinary action taken with respect to the individual that was not subsequently overturned; and

(III) any release from employment or resignation, termination, or disqualification with respect to employment.

(C) NATIONAL DRIVER REGISTER RECORDS.—In accordance with section 30305(b)(7), from the chief driver licensing official of a State, information concerning the motor vehicle driving record of the individual.

(2) WRITTEN CONSENT; RELEASE FROM LIABILITY.—An air carrier making a request for records under paragraph (1)—

(A) shall be required to obtain written consent to the release of those records from the individual that is the subject of the records requested; and

(B) may, notwithstanding any other provision of law or agreement to the contrary, require the individual who is the subject of the records to request to execute a release from liability for any claim arising from the furnishing of such records to or the use of such records by such air carrier (other than a claim arising from furnishing information known to be false and maintained in violation of a criminal statute).

(3) 5–YEAR REPORTING PERIOD.—A person shall not furnish a record in response to a request made under paragraph (1) if the record was entered more than 5 years before the date of the request, unless the information concerns a revocation or

suspension of an airman certificate or motor vehicle license that is in effect on the date of the request.

(4) REQUIREMENT TO MAINTAIN RECORDS.—The Administrator shall maintain pilot records described in paragraph (1)(A) for a period of at least 5 years.

(5) RECEIPT OF CONSENT; PROVISION OF INFORMATION.—A person shall not furnish a record in response to a request made under paragraph (1) without first obtaining a copy of the written consent of the individual who is the subject of the records requested. A person who receives a request for records under this paragraph shall furnish a copy of all of such requested records maintained by the person not later than 30 days after receiving the request.

(6) RIGHT TO RECEIVE NOTICE AND COPY OF ANY RECORD FURNISHED.—A person who receives a request for records under paragraph (1) shall provide to the individual who is the subject of the records—

(A) on or before the 20th day following the date of receipt of the request, written notice of the request and of the individual's right to receive a copy of such records; and

(B) in accordance with paragraph (10), a copy of such records, if requested by the individual.

(7) REASONABLE CHARGES FOR PROCESSING REQUESTS AND FURNISHING COPIES.—A person who receives a request under paragraph (1) or (6) may establish a reasonable charge for the cost of processing the request and furnishing copies of the requested records.

(8) STANDARD FORMS.—The Administrator shall promulgate—

(A) standard forms that may be used by an air carrier to request records under paragraph (1); and

(B) standard forms that may be used by an air carrier to—

(i) obtain the written consent of the individual who is the subject of a request under paragraph (1); and

(ii) inform the individual of—

(I) the request; and

(II) the individual right of that individual to receive a copy of any records furnished in response to the request.

(9) RIGHT TO CORRECT INACCURACIES.—An air carrier that maintains or requests and receives the records of an individual under paragraph (1) shall provide the individual with a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records before making a final hiring decision with respect to the individual.

(10) RIGHT OF PILOT TO REVIEW CERTAIN RECORDS.—Notwithstanding any other provision of law or agreement, an air carrier shall, upon written request from a pilot employed by such carrier, make available, within a reasonable time of the request, to the pilot for review, any and all employment records referred to in paragraph (1)(B) (i) or (ii) pertaining to the employment of the pilot.

(11) PRIVACY PROTECTIONS.—An air carrier that receives the records of an individual under paragraph (1) may use such records only to assess the qualifications of the individual in deciding whether or not to hire the individual as a pilot. The air carrier shall take such actions as may be necessary to protect the privacy of the pilot and the confidentiality of the records, including ensuring that information contained in the records is not divulged to any individual that is not directly involved in the hiring decision.

(12) PERIODIC REVIEW.—Not later than 18 months after the date of the enactment of the Pilot Records Improvement Act of 1996, and at least once every 3 years thereafter, the Administrator shall transmit to Congress a statement that contains, taking into account recent developments in the aviation industry—

(A) recommendations by the Administrator concerning proposed changes to Federal Aviation Administration records, air carrier records, and other records required to be furnished under subparagraphs (A) and (B) of paragraph (1); or

(B) reasons why the Administrator does not recommend any proposed changes to the records referred to in subparagraph (A).

(13) REGULATIONS.—The Administrator may prescribe such regulations as may be necessary—

(A) to protect—

(i) the personal privacy of any individual whose records are requested under paragraph (1); and

(ii) the confidentiality of those records;

(B) to preclude the further dissemination of records received under paragraph (1) by the person who requested those records; and

(C) to ensure prompt compliance with any request made under paragraph (1).

(g) LIMITATION ON LIABILITY; PREEMPTION OF STATE LAW.—

(1) LIMITATION ON LIABILITY.—No action or proceeding may be brought by or on behalf of an individual who has applied for or is seeking a position with an air carrier as a pilot and who has signed a release from liability, as provided for under paragraph (2), against—

(A) the air carrier requesting the records of that individual under subsection (f)(1);

(B) a person who has complied with such request;

(C) a person who has entered information contained in the individual's records; or

(D) an agent or employee of a person described in subparagraph (A) or (B);

in the nature of an action for defamation, invasion of privacy, negligence, interference with contract, or otherwise, or under any Federal or State law with respect to the furnishing or use of such records in accordance with subsection (f).

(2) PREEMPTION.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision

having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using records in accordance with subsection (f).

(3) PROVISION OF KNOWINGLY FALSE INFORMATION.—Paragraphs (1) and (2) shall not apply with respect to a person who furnishes information in response to a request made under subsection (f)(1), that—

(A) the person knows is false; and

(B) was maintained in violation of a criminal statute of the United States.

(h) LIMITATION OF STATUTORY CONSTRUCTION.—Nothing in subsection (f) shall be construed as precluding the availability of the records of a pilot in an investigation or other proceeding concerning an accident or incident conducted by the Administrator, the National Transportation Safety Board, or a court.

§ 44937. Prohibition on transferring duties and powers

Except as specifically provided by law, the Administrator of the Federal Aviation Administration may not transfer a duty or power under section 44903(a), (b), (c), or (e), 44906,[8] 44912, 44935, 44936, or 44938(b)(3) of this title to another department, agency, or instrumentality of the United States Government.

§ 44938. Reports

(a) TRANSPORTATION SECURITY.—Not later than March 31[9] of each year, the Secretary of Transportation shall submit to Congress a report on transportation security with recommendations the Secretary considers appropriate. The report shall be prepared in conjunction with the biennial[10] report the Administrator of the Federal Aviation Administration submits under subsection (b) of this section in each year the Administrator submits the biennial report,[10] but may not duplicate the information submitted under subsection (b) or section 44907(a)(3) of this title. The Secretary may submit the report in classified and unclassified parts. The report shall include—

(1) an assessment of trends and developments in terrorist activities, methods, and other threats to transportation;

(2) an evaluation of deployment of explosive detection devices;

(3) recommendations for research, engineering, and development activities related to transportation security, except research engineering and development activities related to aviation security to the extent those activities are covered by the national aviation research plan required under section 44501(c) of this title;

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[8] Sec. 6(57) of Public Law 103–429 (108 Stat. 4385) struck out "44906(a) or (b)" and inserted in lieu thereof "44906".

[9] Sec. 502 of Public Law 103–305 (108 Stat. 1595) struck out "December 31" and inserted "March 31".

[10] Sec. 1502 of Public Law 105–362 (112 Stat. 3295) struck out "annual" and inserted "biennial"; inserted "in each year the Administrator submits the biennial report"; struck out "annually" and inserted "biennially"; and struck out subsection (c). Subsec. (c) formerly required the submission of an annual report on the implementation of section 44904 of this title.

(4) identification and evaluation of cooperative efforts with other departments, agencies, and instrumentalities of the United States Government;

(5) an evaluation of cooperation with foreign transportation and security authorities;

(6) the status of the extent to which the recommendations of the President's Commission on Aviation Security and Terrorism have been carried out and the reasons for any delay in carrying out those recommendations;

(7) a summary of the activities of the Director of Intelligence and Security in the 12–month period ending on the date of the report;

(8) financial and staffing requirements of the Director;

(9) an assessment of financial and staffing requirements, and attainment of existing staffing goals, for carrying out duties and powers of the Administrator related to security; and

(10) appropriate legislative and regulatory recommendations.

(b) SCREENING AND FOREIGN AIR CARRIER AND AIRPORT SECURITY.—The Administrator shall submit biennially[10] to Congress a report—

(1) on the effectiveness of procedures under section 44901 of this title;

(2) that includes a summary of the assessments conducted under section 44907(a)(1) and (2) of this title; and

(3) that includes an assessment of the steps being taken, and the progress being made, in ensuring compliance with section 44906 of this title for each foreign air carrier security program at airports outside the United States—

(A) at which the Administrator decides that Foreign Security Liaison Officers are necessary for air transportation security; and

(B) for which extraordinary security measures are in place.

(c) [10]* * *

2. Federal Aviation Reauthorization Act of 1996

Partial text of Public Law 104–264, [H.R. 3539], 110 Stat. 3213, approved October 9, 1996

AN ACT To amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, 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; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Aviation Reauthorization Act of 1996".

(b) TABLE OF CONTENTS.—

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TITLE III—AVIATION SECURITY

Sec. 301. Report including proposed legislation on funding for airport security.
Sec. 302. Certification of screening companies.
Sec. 303. Weapons and explosive detection study.
Sec. 304. Requirement for criminal history records checks.
Sec. 305. Interim deployment of commercially available explosive detection equipment.
Sec. 306. Audit of performance of background checks for certain personnel.
Sec. 307. Passenger profiling.
Sec. 308. Authority to use certain funds for airport security programs and activities.
Sec. 309. Development of aviation security liaison agreement.
Sec. 310. Regular joint threat assessments.
Sec. 311. Baggage match report.
Sec. 312. Enhanced security programs.
Sec. 313. Report on air cargo.
Sec. 314. Sense of the Senate regarding acts of international terrorism.

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SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. APPLICABILITY.

(a) IN GENERAL.—Except as otherwise specifically provided, this Act and the amendments made by this Act apply only to fiscal years beginning after September 30, 1996.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this Act or any amendment made by this Act shall be construed as affecting funds made available for a fiscal year ending before October 1, 1996.

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TITLE III—AVIATION SECURITY

SEC. 301. REPORT INCLUDING PROPOSED LEGISLATION ON FUNDING FOR AIRPORT SECURITY.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration, in cooperation with other appropriate persons, shall conduct a study and submit to Congress a report on whether, and if so how, to transfer certain responsibilities of air carriers under Federal law for security activities conducted onsite at commercial service airports to airport operators or to the Federal Government or to provide for shared responsibilities between air carriers and airport operators or the Federal Government.

(b) CONTENTS OF REPORT.—The report submitted under this section shall—

(1) examine potential sources of Federal and non-Federal revenue that may be used to fund security activities, including providing grants from funds received as fees collected under a fee system established under subtitle C of title II of this Act and the amendments made by that subtitle; and

(2) provide legislative proposals, if necessary, for accomplishing the transfer of responsibilities referred to in subsection (a).

SEC. 302. CERTIFICATION OF SCREENING COMPANIES.

The Administrator of the Federal Aviation Administration is directed to certify companies providing security screening and to improve the training and testing of security screeners through development of uniform performance standards for providing security screening services.

SEC. 303. WEAPONS AND EXPLOSIVE DETECTION STUDY.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall enter into an arrangement with the Director of the National Academy of Sciences (or if the National Academy of Sciences is not available, the head of another equivalent entity) to conduct a study in accordance to this section.

(b) PANEL OF EXPERTS.—

(1) IN GENERAL.—In carrying out a study under this section, the Director of the National Academy of Sciences (or the head of another equivalent entity) shall establish a panel (hereinafter in this section referred to as the "panel").

(2) EXPERTISE.—Each member of the panel shall have expertise in weapons and explosive detection technology, security, air carrier and airport operations, or another appropriate area. The Director of the National Academy of Sciences (or the head of another equivalent entity) shall ensure that the panel has an appropriate number of representatives of the areas specified in the preceding sentence.

(c) STUDY.—The panel, in consultation with the National Science and Technology Council, representatives of appropriate Federal agencies, and appropriate members of the private sector, shall—

(1) assess the weapons and explosive detection technologies that are available at the time of the study that are capable of being effectively deployed in commercial aviation;

(2) determine how the technologies referred to in paragraph (1) may more effectively be used for promotion and improvement of security at airport and aviation facilities and other secured areas;

(3) assess the cost and advisability of requiring hardened cargo containers as a way to enhance aviation security and reduce the required sensitivity of bomb detection equipment; and

(4) on the basis of the assessments and determinations made under paragraphs (1), (2), and (3), identify the most promising technologies for the improvement of the efficiency and cost- effectiveness of weapons and explosive detection.

(d) COOPERATION.—The National Science and Technology Council shall take such actions as may be necessary to facilitate, to the maximum extent practicable and upon request of the Director of the National Academy of Sciences (or the head of another equivalent entity), the cooperation of representatives of appropriate Federal agencies, as provided for in subsection (c), in providing the panel, for the study under this section—

(1) expertise; and

(2) to the extent allowable by law, resources and facilities.

(e) REPORTS.—The Director of the National Academy of Sciences (or the head of another equivalent entity) shall, pursuant to an arrangement entered into under subsection (a), submit to the Administrator such reports as the Administrator considers to be appropriate. Upon receipt of a report under this subsection, the Administrator shall submit a copy of the report to the appropriate committees of Congress.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1997 through 2001 such sums as may be necessary to carry out this section.

SEC. 304. REQUIREMENT FOR CRIMINAL HISTORY RECORDS CHECKS.

* * * * * * *

(b) APPLICABILITY.—The amendment made by subsection (a)(3) shall apply to individuals hired to perform functions described in section 44936(a)(1)(B) of title 49, United States Code, after the date of the enactment of this Act; except that the Administrator of the Federal Aviation Administration may, as the Administrator determines to be appropriate, require such employment investigations or criminal history records checks for individuals performing those functions on the date of the enactment of this Act.

SEC. 305. INTERIM DEPLOYMENT OF COMMERCIALLY AVAILABLE EXPLOSIVE DETECTION EQUIPMENT.

* * * * * * *

(b) AGREEMENTS.—The Administrator is authorized to use noncompetitive or cooperative agreements with air carriers and airport authorities that provide for the Administrator to purchase and assist in installing advanced security equipment for the use of such entities.

SEC. 306. AUDIT OF PERFORMANCE OF BACKGROUND CHECKS FOR CERTAIN PERSONNEL.

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SEC. 307. PASSENGER PROFILING.

The Administrator of the Federal Aviation Administration, the Secretary of Transportation, the intelligence community, and the law enforcement community should continue to assist air carriers in developing computer-assisted passenger profiling programs and other appropriate passenger profiling programs which should be used in conjunction with other security measures and technologies.

SEC. 308. AUTHORITY TO USE CERTAIN FUNDS FOR AIRPORT SECURITY PROGRAMS AND ACTIVITIES.

(a) IN GENERAL.—Notwithstanding any other provision of law, funds referred to in subsection (b) may be used for the improvement of facilities and the purchase and deployment of equipment to enhance and ensure the safety and security of passengers and other persons involved in air travel.

(b) COVERED FUNDS.—The following funds may be used under subsection (a):

(1) Project grants made under subchapter I of chapter 471 of title 49, United States Code.

(2) Passenger facility fees collected under section 40117 of title 49, United States Code.

SEC. 309. DEVELOPMENT OF AVIATION SECURITY LIAISON AGREEMENT.

The Secretary of Transportation and the Attorney General, acting through the Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation, shall enter into an interagency agreement providing for the establishment of an aviation security liaison at existing appropriate Federal agencies' field offices in or near cities served by a designated high-risk airport.

SEC. 310. REGULAR JOINT THREAT ASSESSMENTS.

The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall carry out joint threat and vulnerability assessments on security every 3 years, or more frequently, as necessary, at each airport determined to be high risk.

SEC. 311. BAGGAGE MATCH REPORT.

(a) REPORT.—If a bag match pilot program is carried out as recommended by the White House Conference on Aviation Safety and Security, not later than the 30th day following the date of completion of the pilot program, the Administrator of the Federal Aviation Administration shall submit to Congress a report on the safety, effectiveness, and operational effectiveness of the pilot program. The report shall also assess the extent to which implementation of baggage match requirements (coupled with the best available technologies and methodologies, such as passenger profiling) enhance domestic aviation security.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Administrator should work with airports and air carriers to develop, to the extent feasible, effective domestic bag matching proposals.

SEC. 312. ENHANCED SECURITY PROGRAMS.

* * * * * * *

SEC. 313. REPORT ON AIR CARGO.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on any changes recommended and implemented as a result of the White House Commission on Aviation Safety and Security to enhance and supplement screening and inspection of cargo, mail, and company-shipped materials transported in air commerce.

(b) CONTENTS.—The report shall include—

(1) an assessment of the effectiveness of the changes referred to in subsection (a);

(2) an assessment of the oversight by the Federal Aviation Administration of inspections of shipments of mail and cargo by domestic and foreign air carriers;

(3) an assessment of the need for additional security measures with respect to such inspections;

(4) an assessment of the adequacy of inspection and screening of cargo on passenger air carriers; and

(5) any additional recommendations, and if necessary any legislative proposals, necessary to carry out additional changes.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that the inspection of cargo, mail, and company-shipped materials can be enhanced.

SEC. 314. SENSE OF THE SENATE REGARDING ACTS OF INTERNATIONAL TERRORISM.

(a) FINDINGS.—The Senate finds that—

(1) there has been an intensification in the oppression and disregard for human life among nations that are willing to export terrorism;

(2) there has been an increase in attempts by criminal terrorists to murder airline passengers through the destruction of civilian airliners and the deliberate fear and death inflicted through bombings of buildings and the kidnapping of tourists and Americans residing abroad; and

(3) information widely available demonstrates that a significant portion of international terrorist activity is state-sponsored, -organized, -condoned, or -directed.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that if evidence establishes beyond a clear and reasonable doubt that any act of hostility towards any United States citizen was an act of international terrorism sponsored, organized, condoned, or directed by any nation, a state of war should be considered to exist or to have existed between the United States and that nation, beginning as of the moment that the act of aggression occurs.

3. Crimes and Criminal Procedure

Partial text of Title 18, United States Code—Crimes and Criminal Procedure

PART I—CRIMES

CHAPTER 2—AIRCRAFT AND MOTOR VEHICLES

* * * * * * *

§ 32. Destruction of aircraft or aircraft facilities

(a) WHOEVER WILLFULLY—

(1) sets fire to, damages, destroys, disables, or wrecks any aircraft in the special aircraft jurisdiction of the United States or any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce;

(2) places or causes to be placed a destructive device or substance in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any such aircraft, or any part or other materials used or intended to be used in connection with the operation of such aircraft, if such placing or causing to be placed or such making or causing to be made is likely to endanger the safety of any such aircraft;

(3) sets fire to, damages, destroys, or disables any air navigation facility, or interferes by force or violence with the operation of such facility, if such fire, damaging, destroying, disabling, or interfering is likely to endanger the safety of any such aircraft in flight;

(4) with the intent to damage, destroy, or disable any such aircraft, sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance or structure, ramp, landing area, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading or storage of any such aircraft or any cargo carried or intended to be carried on any such aircraft;

(5) performs an act of violence against or incapacitates any individual on any such aircraft, if such act of violence or incapacitation is likely to endanger the safety of such aircraft;

(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any such aircraft in flight; or

(7) attempts to do anything prohibited under paragraphs (1) through (6) of this subsection;

shall be fined under this title or imprisoned not more than twenty years or both.

(b) WHOEVER WILLFULLY—

(1) performs an act of violence against any individual on board any civil aircraft registered in a country other than the United States while such aircraft is in flight, if such act is likely to endanger the safety of that aircraft;

(2) destroys a civil aircraft registered in a country other than the United States while such aircraft is in service or causes damage to such an aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight;

(3) places or causes to be placed on a civil aircraft registered in a country other than the United States while such aircraft is in service, a device or substance which is likely to destroy that aircraft, or to cause damage to that aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight; or(4) attempts to commit an offense described in paragraphs (1) through (3) of this subsection;

shall, if the offender is later found in the United States, be fined under this title or imprisoned not more than twenty years, or both. There is jurisdiction over an offense under this subsection if a national of the United States was on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United Sates. For purposes of this subsection, the term "national of the United States" has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act.

(c) Whoever willfully imparts or conveys any threat to do an act which would violate any of paragraphs (1) through (5) of subsection (a) or any of paragraphs (1) through (3) of subsection (b) of this section, with an apparent determination and will to carry the threat into execution shall be fined under this title or imprisoned not more than five years, or both.

* * * * * * *

§ 37. Violence at international airports

(a) OFFENSE.—A person who unlawfully and intentionally, using any device, substance, or weapon—

(1) performs an act of violence against a person at an airport serving international civil aviation that causes or is likely to cause serious bodily injury (as defined in section 1365 of this title) or death; or

(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title, imprisoned not more than 20 years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

(b) JURISDICTION.—There is jurisdiction over the prohibited activity in subsection (a) if—

(1) the prohibited activity takes place in the United States; or

(2) the prohibited activity takes place outside the United States and the offender is later found in the United States.

(c) BAR TO PROSECUTION.—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term "labor dispute" has the meaning set forth in section 2(c)[1] of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)), and the term "State" means a State of the United States, the District of Colombia, and any commonwealth, territory, or possession of the United States.

[1] So in original. Probably should be section "13(c)."

4. Aviation Security Improvement Act of 1990

Partial text of Public Law 101–604 [H.R. 5732], 104 Stat. 3066, approved November 16, 1990, as amended

AN ACT To promote and strengthen aviation security, 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 "Aviation Security Improvement Act of 1990".

(b) TABLE OF CONTENTS.—* * *

SEC. 2.[2] FINDINGS.

Congress finds that—

(1) the safety and security of passengers of United States air carriers against terrorist threats should be given the highest priority by the United States Government;

(2) the report of the President's Commission on Aviation Security and Terrorism, dated May 15, 1990, found that current aviation security systems are inadequate to provide such protection;

(3) the United States Government should immediately take steps to ensure fuller compliance with existing laws and regulations relating to aviation security;

(4) the United States Government should work through the International Civil Aviation Organization and directly with foreign governments to enhance aviation security of foreign carriers and at foreign airports;

(5) the United States Government should ensure that enhanced security measures are fully implemented by both United States and foreign air carriers;

(6) all nations belonging to the Summit Seven should promptly amend the Bonn Declaration to extend sanctions for all terrorist acts, including attacks against airports and air carrier ticket offices;

(7) the United States Government, in bilateral negotiations with foreign governments, should emphasize upgrading international aviation security objectives;

(8) the United States Government should have in place a mechanism by which the Government notifies the public, on a case-by-case basis and through the application of a uniform national standard, of certain credible threats to civil aviation security;

(9) the United States Government has a special obligation to United States victims of acts of terrorism directed against this

[1] 49 U.S.C. app. 1301 note.
[2] 22 U.S.C. 5501 note.

Nation and should provide prompt assistance to the families of such victims and assure that fair and prompt compensation is provided to such victims and their families;

(10) the United States should work with other nations to treat as outlaws state sponsors of terrorism, isolating such sponsors politically, economically, and militarily;

(11) the United States must develop a clear understanding that state-sponsored terrorism threatens United States values and interests, and that active measures are needed to counter more effectively the terrorist threat; and

(12) the United States must have the national will to take every feasible action to prevent, counter, and respond to terrorist activities.

TITLE I—AVIATION SECURITY[3]

TITLE II—UNITED STATES RESPONSE TO TERRORISM AFFECTING AMERICANS ABROAD

SEC. 201.[4] INTERNATIONAL NEGOTIATIONS CONCERNING AVIATION SECURITY.

(a) UNITED STATES POLICY.—It is the policy of the United States—

(1) to seek bilateral agreements to achieve United States aviation security objectives with foreign governments;

(2) to continue to press vigorously for security improvements through the Foreign Airport Security Act and the foreign airport assessment program; and

(3) to continue to work through the International Civil Aviation Organization to improve aviation security internationally.

(b) NEGOTIATIONS FOR AVIATION SECURITY.—(1) The Department of State, in consultation with the Department of Transportation, shall be responsible for negotiating requisite aviation security agreements with foreign governments concerning the implementation of United States rules and regulations which affect the foreign operations of United States air carriers, foreign air carriers, and foreign international airports. The Secretary of State is directed to enter, expeditiously, into negotiations for bilateral and multilateral agreements—

(A) for enhanced aviation security objectives;

(B) to implement the Foreign Airport Security Act and the foreign airport assessment program to the fullest extent practicable; and

(C) to achieve improved availability of passenger manifest information.

(2) A principal objective of bilateral and multilateral negotiations with foreign governments and the International Civil Aviation Organization shall be improved availability of passenger manifest information.

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[3] Sec. 7(b) of Public Law 103–272 (108 Stat. 1398) repealed sec. 101(a) and (b), secs. 102 through 111, sec. 203(a) through (c). See 49 U.S.C. relating to aviation security.

[4] 22 U.S.C. 5501.

SEC. 202.[5] COORDINATOR FOR COUNTERTERRORISM.

The Coordinator for Counterterrorism shall be responsible for the coordination of international aviation security for the Department of State.

* * * * * * *

SEC. 204.[6] DEPARTMENT OF STATE NOTIFICATION OF FAMILIES OF VICTIMS.

(a) DEPARTMENT OF STATE POLICY.—It is the policy of the Department of State pursuant to section 43 of the State Department Basic Authorities Act to directly and promptly notify the families of victims of aviation disasters abroad concerning citizens of the United States directly affected by such a disaster, including timely written notice. The Secretary of State shall ensure that such notification by the Department of State is carried out notwithstanding notification by any other person.

(b) DEPARTMENT OF STATE GUIDELINES.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such regulations, guidelines, and circulars as are necessary to ensure that the policy under subsection (a) is fully implemented.

SEC. 205.[7] DESIGNATION OF STATE DEPARTMENT-FAMILY LIAISON AND TOLL-FREE FAMILY COMMUNICATIONS SYSTEM.

(a) DESIGNATION OF STATE DEPARTMENT-FAMILY LIAISON.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an aviation disaster directly involving United States citizens abroad, if possible, the Department of State will assign a specific individual, and an alternate, as the Department of State liaison for the family of each such citizen.

(b) TOLL-FREE COMMUNICATIONS SYSTEM.—In the establishment of the Department of State toll-free communications system to facilitate inquiries concerning the affect of any disaster abroad on United States citizens residing or traveling abroad, the Secretary of State shall ensure that a toll-free telephone number is reserved for the exclusive use of the families of citizens who have been determined to be directly involved in any such disaster.

SEC. 206.[8] DISASTER TRAINING FOR STATE DEPARTMENT PERSONNEL.

(a) ADDITIONAL TRAINING.—The Secretary of State shall institute a supplemental program of training in disaster management for all consular officers.

(b) TRAINING IMPROVEMENTS.—

(1) In expanding the training program under subsection (a), the Secretary of State shall consult with death and bereavement counselors concerning the particular demands posed by aviation tragedies and terrorist activities.

(2) In providing such additional training under subsection (a) the Secretary of State shall consider supplementing the current training program through—

[5] 22 U.S.C. 5502.
[6] 22 U.S.C. 5503.
[7] 22 U.S.C. 5504.
[8] 22 U.S.C. 5505.

(A) providing specialized training to create a team of "disaster specialists" to deploy immediately in a crisis; or

(B) securing outside experts to be brought in during the initial phases to assist consular personnel.

SEC. 207.[9] DEPARTMENT OF STATE RESPONSIBILITIES AND PROCEDURES AT INTERNATIONAL DISASTER SITE.

(a) DISPATCH OF SENIOR STATE DEPARTMENT OFFICIAL TO SITE.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an international disaster, particularly an aviation tragedy, directly involving significant numbers of United States citizens abroad not less than one senior officer from the Bureau of Consular Affairs of the Department of State shall be dispatched to the site of such disaster.

(b) CRITERIA FOR DEPARTMENT OF STATE STAFFING AT DISASTER SITE.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate criteria for Department of State staffing of disaster sites abroad. Such criteria shall define responsibility for staffing decisions and shall consider the deployment of crisis teams under subsection (d). The Secretary of State shall promptly issue such rules and guidelines as are necessary to implement criteria developed pursuant to this subsection.

(c) STATE DEPARTMENT OMBUDSMAN.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an international aviation disaster involving significant numbers of United States citizens abroad not less than one officer or employee of the Department of State shall be dispatched to the disaster site to provide on-site assistance to families who may visit the site and to act as an ombudsman in matters involving the foreign local government authorities and social service agencies.

(d) CRISIS TEAMS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate procedures for the deployment of a "crisis team", which may include public affairs, forensic, and bereavement experts, to the site of any international disaster involving United States citizens abroad to augment in-country Embassy and consulate staff. The Secretary of State shall promptly issue such rules and guidelines as are necessary to implement procedures developed pursuant to this subsection.

SEC. 208.[10] RECOVERY AND DISPOSITION OF REMAINS AND PERSONAL EFFECTS.

It is the policy of the Department of State (pursuant to section 43 of the State Department Basic Authorities Act) to provide liaison with foreign governments and persons and with United States air carriers concerning arrangements for the preparation and transport to the United States of the remains of citizens who die abroad, as well as the disposition of personal effects. The Secretary of State shall ensure that regulations and guidelines of the Department of State reflect such policy and that such assistance is ren-

[9] 22 U.S.C. 5506.
[10] 22 U.S.C. 5507.

dered to the families of United States citizens who are killed in terrorist incidents and disasters abroad.

SEC. 209.[11] ASSESSMENT OF LOCKERBIE EXPERIENCE.

(a) ASSESSMENT.—The Secretary of State shall compile an assessment of the Department of State response to the Pan American Airways Flight 103 aviation disaster over Lockerbie, Scotland, on December 21, 1988.

(b) GUIDELINES.—The Secretary of State shall establish, based on the assessment compiled under subsection (a) and other relevant factors, guidelines for future Department of State responses to comparable disasters and shall distribute such guidelines to all United States diplomatic and consular posts abroad.

SEC. 210.[12] OFFICIAL DEPARTMENT OF STATE RECOGNITION.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate guidelines for appropriate ceremonies or other official expressions of respect and support for the families of United States citizens who are killed through acts of terrorism abroad.

SEC. 211.[13] UNITED STATES GOVERNMENT COMPENSATION FOR VICTIMS OF TERRORISM.

(a) COMPENSATION.—The President shall submit to the Congress, not later than one year after the date of the enactment of this Act, recommendations on whether or not legislation should be enacted to authorize the United States to provide monetary and tax relief as compensation to United States citizens who are victims of terrorism.

(b) BOARD.—The President may establish a board to develop criteria for compensation and to recommend changes to existing laws to establish a single comprehensive approach to victim compensation for terrorist acts.

(c) INCOME TAX BENEFIT FOR VICTIMS OF LOCKERBIE TERRORISM.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of any individual whose death was a direct result of the Pan American Airways Flight 103 terrorist disaster over Lockerbie, Scotland, on December 21, 1988, any tax imposed by subtitle A of the Internal Revenue Code of 1986 shall not apply—

(A) with respect to the taxable year which includes December 21, 1988, and

(B) with respect to the prior taxable year.

(2) LIMITATION.—In no case may the tax benefit pursuant to paragraph (1) for any taxable year, for any individual, exceed an amount equal to 28 percent of the annual rate of basic pay at Level V of the Executive Schedule of the United States as of December 21, 1988.

SEC. 212.[14] OVERSEAS SECURITY ELECTRONIC BULLETIN BOARD.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and regulations as may be necessary to establish, under the Bureau of Consular Af-

[11] 22 U.S.C. 5508.
[12] 22 U.S.C. 5509.
[13] 22 U.S.C. 5510.
[14] 22 U.S.C. 5511.

fairs, an electronic bulletin board accessible to the general public. Such bulletin board shall contain all information, updated daily, which is available on the Overseas Security Electronic Bulletin Board of the Bureau of Diplomatic Security.

SEC. 213. ANTITERRORISM ASSISTANCE.

(a) AVIATION SECURITY.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated $7,000,000 for fiscal year 1991 for aviation security assistance under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.), relating to antiterrorism assistance.

(b)[15] TRAINING SERVICES.— * * *

SEC. 214.[16] ANTITERRORISM MEASURES.

(a) GUIDELINES FOR INTERNATIONAL AVIATION TRAVELERS.—For the purpose of notifying the public, the Secretary of State, in consultation with the Secretary of Transportation, shall develop and publish guidelines for thwarting efforts by international terrorists to enlist the unwitting assistance of international aviation travelers in terrorist activities. Notices concerning such guidelines shall be posted and prominently displayed domestically and abroad in international airports.

(b) DEVELOPMENT OF INTERNATIONAL STANDARDS.—The Secretary of State and the Secretary of Transportation in all appropriate fora, particularly talks and meetings related to international civil aviation, shall enter into negotiations with other nations for the establishment of international standards regarding guidelines for thwarting efforts by international terrorists to enlist the unwitting assistance of international aviation travelers in terrorist activities.

(c) PUBLICATION OF REWARDS FOR TERRORISM-RELATED INFORMATION.—For the purpose of notifying the public, the Secretary of State shall publish the availability of United States Government rewards for information on international terrorist-related activities, including rewards available under section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)) and chapter 204 of title 18, United States Code. To the extent appropriate and feasible, notices making such publication shall be posted and prominently displayed domestically and abroad in international airports.

(d) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Transportation should take appropriate measures to utilize and train properly the officers and employees of other United States Government agencies who have functions at international airports in the United States and abroad in the detection of explosives and firearms which could be a threat to international civil aviation.

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[15] Sec. 213(b) amended sec. 573(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa2). For text, see U.S. Congress. House. Committee on International Relations. *Legislation on Foreign Relations Through 1996*, (Washington, G.P.O., 1997), vol. I–A.

[16] 22 U.S.C. 5512.

SEC. 215.[17] PROPOSAL FOR CONSIDERATION BY THE INTERNATIONAL CIVIL AVIATION ORGANIZATION.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Transportation, shall propose to the International Civil Aviation Organization the establishment of a comprehensive aviation security program which shall include (1) training for airport security personnel, (2) grants for security equipment acquisition for certain nations, and (3) expansion of the appropriate utilization of canine teams in the detection of explosive devices in all airport areas, including use in passenger screening areas and nonpublic baggage assembly and processing areas.

[17] 22 U.S.C. 5513.

5. International Security and Development Cooperation Act of 1985

Partial text of Title V of Public Law 99–83 [S. 960], 99 Stat. 190, approved August 8, 1985, as amended

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,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "International Security and Development Cooperation Act of 1985".

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TITLE V—INTERNATIONAL TERRORISM AND FOREIGN AIRPORT SECURITY

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PART B—FOREIGN AIRPORT SECURITY

SEC. 551. SECURITY STANDARDS FOR FOREIGN AIR TRANSPORTATION.

(a)[1] SECURITY AT FOREIGN AIRPORTS.—* * * [Repealed—1994]

(b) CONFORMING AMENDMENTS.—* * * [Repealed—1994]

(c) CLOSING OF BEIRUT INTERNATIONAL AIRPORT.—It is the sense of the Congress that the President is urged and encouraged to take all appropriate steps to carry forward his announced policy of seeking the effective closing of the international airport in Beirut, Lebanon, at least until such time as the Government of Lebanon has instituted measures and procedures designed to prevent the use of that airport by aircraft hijackers and other terrorists in attacking civilian airlines or their passengers, hijacking their aircraft, or taking or holding their passengers hostage.

SEC. 552.[2] TRAVEL ADVISORY AND SUSPENSION OF FOREIGN ASSISTANCE. * * * [Repealed—1994]

SEC. 553.[2] UNITED STATES AIRMARSHAL PROGRAM. * * * [Repealed—1994]

SEC. 554. ENFORCEMENT OF INTERNATIONAL CIVIL AVIATION ORGANIZATION STANDARDS.

The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to enforce that Organization's existing standards and to support United States actions enforcing such standards.

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[1] Sec. 7(b) of Public Law 103–272 (108 Stat. 1379) repealed sec. 551(a) and (b).

[2] Sec. 7(b) of Public Law 103–272 (108 Stat. 1379) repealed secs. 552, 553, and 556. See 49 U.S.C. relating to aviation security.

SEC. 555. INTERNATIONAL CIVIL AVIATION BOYCOTT OF COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

It is the sense of the Congress that the President—

(1) should call for an international civil aviation boycott with respect to those countries which the President determines—

(A) grant sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(B) otherwise support international terrorism; and

(2) should take steps, both bilateral and multilateral, to achieve a total international civil aviation boycott with respect to those countries.

SEC. 556.[2] MULTILATERAL AND BILATERAL AGREEMENTS WITH RESPECT TO AIRCRAFT SABOTAGE, AIRCRAFT HIJACKING, AND AIRPORT SECURITY. * * * [Repealed—1994]

SEC. 557. RESEARCH ON AIRPORT SECURITY TECHNIQUES FOR DETECTING EXPLOSIVES.

In order to improve security at international airports, there are authorized to be appropriated to the Secretary of Transportation from the Airport and Airway Trust Fund (in addition to amounts otherwise available for such purpose) $5,000,000, without fiscal year limitation, to be used for research on and the development of airport security devices or techniques for detecting explosives.

* * * * * * *

G. OTHER LEGISLATION

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1. The Immigration and Nationality Act

Partial text of Public Law 82–414 [H.R. 5678], 66 Stat. 163, approved June 27, 1952, as amended

TITLE I—GENERAL

DEFINITIONS

SEC. 101.[1] (a) As used in this Act—

* * * * * * *

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens—

* * * * * * *

(S) subject to section 214(k), an alien—

(i) who the Attorney General determines—

(I) is in possession of critical reliable information concerning a criminal organization or enterprise;

(II) is willing to supply or has supplied such information to Federal or State law enforcement authorities or a Federal or State court; and

(III) whose presence in the United States the Attorney General determines is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization or enterprise; or

(ii) who the Secretary of State and the Attorney General jointly determine—

(I) is in possession of critical reliable information concerning a terrorist organization, enterprise, or operation;

(II) is willing to supply or has supplied such information to Federal law enforcement authorities or a Federal court;

(III) will be or has been placed in danger as a result of providing such information; and

(IV) is eligible to receive a reward under section 36(a) of the State Department Basic Authorities Act of 1956,

and, if the Attorney General (or with respect to clause (ii), the Secretary of State and the Attorney General jointly) considers it to be appropriate, the spouse, married and unmarried

[1] 8 U.S.C. 1101.

sons and daughters, and parents of an alien described in clause (i) or (ii) if accompanying, or following to join, the alien.

* * * * * * *

TITLE II—IMMIGRATION

* * * * * * *

CHAPTER 2—QUALIFICATIONS FOR ADMISSION OF ALIENS; TRAVEL CONTROL OF CITIZENS AND ALIENS

* * * * * * *

GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND INELIGIBLE FOR ADMISSION; WAIVERS OF INADMISSIBILITY

SEC. 212.[2] (a) CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSIONS.—Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(1)–(2) * * *

(3) SECURITY AND RELATED GROUNDS.—* * *

(B) TERRORIST ACTIVITIES.—

(i) IN GENERAL.—Any alien who—

(I) has engaged in a terrorist activity,

(II) a consular officer or the Attorney General knows, or has reasonable ground to believe, is likely to engage after entry in any terrorist activity (as defined in clause (iii)),

(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity,

(IV) is a representative (as defined in clause (iv)) of a foreign terrorist organization, as designated by the Secretary under section 219 which the alien knows or should have known is a terrorist organization, or

(V) is a member of a foreign terrorist organization, as designated by the Secretary under section 219,

is inadmissible. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this Act, to be engaged in a terrorist activity.

(ii) TERRORIST ACTIVITY DEFINED.—As used in this Act, the term "terrorist activity" means any activity which is unlawful under the laws of the place where it is committed (or which, if committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following:

(I) The highjacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).

[2] 8 U.S.C. 1182.

(II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.

(III) A violent attack upon an internationally protected person (as defined in section 1116(b)(4) of title 18, United States Code) or upon the liberty of such a person.

(IV) An assassination.

(V) The use of any—

(a) biological agent, chemical agent, or nuclear weapon or device, or

(b) explosive or firearm (other than for mere personal monetary gain),

with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.

(VI) A threat, attempt, or conspiracy to do any of the foregoing.

(iii) ENGAGE IN TERRORIST ACTIVITY DEFINED.—As used in this Act, the term "engage in terrorist activity" means to commit, in an individual capacity or as a member of an organization, an act of terrorist activity or an act which the actor knows, or reasonably should know, affords material support to any individual, organization, or government in conducting a terrorist activity at any time, including any of the following acts:

(I) The preparation or planning of a terrorist activity.

(II) The gathering of information on potential targets for terrorist activity.

(III) The providing of any type of material support, including a safe house, transportation, communications, funds, false documentation or identification, weapons, explosives, or training, to any individual the actor knows or has reason to believe has committed or plans to commit a terrorist activity.

(IV) The soliciting of funds or other things of value for terrorist activity or for any terrorist organization.

(V) The solicitation of any individual for membership in a terrorist organization, terrorist government, or to engage in a terrorist activity.

(iv) REPRESENTATIVE DEFINED.—As used in this paragraph, the term "representative" includes an officer, official, or spokesman of an organization, and any person who directs, counsels, commands, or induces an organization or its members to engage in terrorist activity.

* * * * * * *

ADMISSION OF NONIMMIGRANTS

SEC. 214.[3] (a)–(j) * * *

(k)[4](1) The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(i) in any fiscal year may not exceed 200. The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(ii) in any fiscal year may not exceed 50.

(2) No alien may be admitted into the United States as such a nonimmigrant more than 5 years after the date of the enactment of this subsection.

(3) The period of admission of an alien as such a nonimmigrant may not exceed 3 years. Such period may not be extended by the Attorney General.

(4) * * *

(5) The Attorney General shall submit a report annually to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate concerning—

(A) the number of such nonimmigrants admitted;

(B) the number of successful criminal prosecutions or investigationsresulting from cooperation of such aliens;

(C) the number of terrorist acts prevented or frustrated resulting from cooperation of such aliens;

(D) the number of such nonimmigrants whose admission or cooperation has not resulted in successful criminal prosecution or investigation or the prevention or frustration of a terrorist act; and

(E) the number of such nonimmigrants who have failed to report quarterly (as required under paragraph (4)) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.RESTRICTIONS ON WAIVER.—* * *

* * * * * * *

SEC. 219.[5] DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

(a) DESIGNATION.—

(1) IN GENERAL.—The Secretary is authorized to designate an organization as a foreign terrorist organization in accordance with this subsection if the Secretary finds that—

(A) the organization is a foreign organization;

(B) the organization engages in terrorist activity (as defined in section 212(a)(3)(B)); and

(C) the terrorist activity of the organization threatens the security of United States nationals or the national security of the United States.

(2) PROCEDURE.—

(A) NOTICE.—Seven days before making a designation under this subsection, the Secretary shall, by classified communication—

[3] 8 U.S.C. 1184.
[4] Sec. 220(b) of Public Law 103–416 (108 Stat. 4319) added subsec. (k).
[5] 8 U.S.C. 1189. Added by sec. 302(a) of Public Law 104–132 (110 Stat. 1248).

(i) notify the Speaker and Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees, in writing, of the intent to designate a foreign organization under this subsection, together with the findings made under paragraph (1) with respect to that organization, and the factual basis therefor; and

(ii) seven days after such notification, publish the designation in the Federal Register.

(B) EFFECT OF DESIGNATION.—

(i) For purposes of section 2339B of title 18, United States Code, a designation under this subsection shall take effect upon publication under subparagraph (A).

(ii) Any designation under this subsection shall cease to have effect upon an Act of Congress disapproving such designation.

(C) FREEZING OF ASSETS.—Upon notification under paragraph (2), the Secretary of the Treasury may require United States financial institutions possessing or controlling any assets of any foreign organization included in the notification to block all financial transactions involving those assets until further directive from either the Secretary of the Treasury, Act of Congress, or order of court.

(3) RECORD.—

(A) IN GENERAL.—In making a designation under this subsection, the Secretary shall create an administrative record.

(B) CLASSIFIED INFORMATION.—The Secretary may consider classified information in making a designation under this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

(4) PERIOD OF DESIGNATION.—

(A) IN GENERAL.—Subject to paragraphs (5) and (6), a designation under this subsection shall be effective for all purposes for a period of 2 years beginning on the effective date of the designation under paragraph (2)(B).

(B) REDESIGNATION.—The Secretary may redesignate a foreign organization as a foreign terrorist organization for an additional 2-year period at the end of the 2-year period referred to in subparagraph (A) (but not sooner than 60 days prior to the termination of such period) upon a finding that the relevant circumstances described in paragraph (1) still exist. The procedural requirements of paragraphs (2) and (3) shall apply to a redesignation under this subparagraph.

(5) REVOCATION BY ACT OF CONGRESS.—The Congress, by an Act of Congress, may block or revoke a designation made under paragraph (1).

(6) REVOCATION BASED ON CHANGE IN CIRCUMSTANCES.—

(A) IN GENERAL.—The Secretary may revoke a designation made under paragraph (1) if the Secretary finds that—

(i) the circumstances that were the basis for the designation have changed in such a manner as to warrant revocation of the designation; or

(ii) the national security of the United States warrants a revocation of the designation.

(B) PROCEDURE.—The procedural requirements of paragraphs (2) through (4) shall apply to a revocation under this paragraph.

(7) EFFECT OF REVOCATION.—The revocation of a designation under paragraph (5) or (6) shall not affect any action or proceeding based on conduct committed prior to the effective date of such revocation.

(8) USE OF DESIGNATION IN TRIAL OR HEARING.—If a designation under this subsection has become effective under paragraph (1)(B), a defendant in a criminal action shall not be permitted to raise any question concerning the validity of the issuance of such designation as a defense or an objection at any trial or hearing.

(b) JUDICIAL REVIEW OF DESIGNATION.—

(1) IN GENERAL.—Not later than 30 days after publication of the designation in the Federal Register, an organization designated as a foreign terrorist organization may seek judicial review of the designation in the United States Court of Appeals for the District of Columbia Circuit.

(2) BASIS OF REVIEW.—Review under this subsection shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information used in making the designation.

(3) SCOPE OF REVIEW.—The Court shall hold unlawful and set aside a designation the court finds to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity; or

(C) in excess of statutory jurisdiction, authority, or limitation, or short of statutory right.

(D) lacking substantial support in the administrative record taken as a whole or in classified information submitted to the court under paragraph (2), or

(E) not in accord with the procedures required by law.

(4) JUDICIAL REVIEW INVOKED.—The pendency of an action for judicial review of a designation shall not affect the application of this section, unless the court issues a final order setting aside the designation.

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

(1) the term "classified information" has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

(2) the term "national security" means the national defense, foreign relations, or economic interests of the United States;

(3) the term "relevant committees" means the Committees on the Judiciary, Intelligence, and Foreign Relations of the Senate and the Committees on the Judiciary, Intelligence, and International Relations of the House of Representatives; and

(4) the term "Secretary" means the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General.

* * * * * * *

CHAPTER 4—PROVISIONS RELATING TO ENTRY AND EXCLUSION

* * * * * * *

GENERAL CLASSES OF DEPORTABLE ALIENS

SEC. 237.[6] (a) CLASSES OF DEPORTABLE ALIENS.—Any alien (including an alien crewman) in and admitted to the United States shall, upon the order of the Attorney General, be removed if the alien is within one or more of the following classes of deportable aliens:

(1) INADMISSIBLE AT TIME OF ENTRY OR OF ADJUSTMENT OF STATUS OR VIOLATES STATUS.—* * *

(2) CRIMINAL OFFENSES.—* * *

(3) FAILURE TO REGISTER AND FALSIFICATION OF DOCUMENTS.—* * *

(4) SECURITY AND RELATED GROUNDS.—

(A) IN GENERAL.—* * *

(B) TERRORIST ACTIVITIES.—Any alien who has engaged, or at any time after admission engages in any terrorist activity (as defined in section 212(a)(3)(B)(iii)) is deportable.

* * * * * * *

TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES[7]

SEC. 501.[8] DEFINITIONS.

As used in this title—

(1) the term "alien terrorist" means any alien described in section 241(a)(4)(B);

(2) the term "classified information" has the same meaning as in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

(3) the term "national security" has the same meaning as in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App.);

(4) the term "removal court" means the court described in section 502;

(5) the term "removal hearing" means the hearing described in section 504; and

(6) the term "removal proceeding" means a proceeding under this title.

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[6] 8 U.S.C. 1227; redesignated from sec. 241 (8 U.S.C. 1251) by sec. 305(a)(2) of Public Law 104–208 (110 Stat. 3009), effective on the first day of the first month beginning more than 180 days after September 30, 1996.

[7] Sec. 401(a) of Public Law 104–132 (110 Stat. 1258) added title V.

[8] 8 U.S.C. 1531.

(7) the term "special attorney" means an attorney who is on the panel established under section 502(e).

SEC. 502.[9] ESTABLISHMENT OF REMOVAL COURT.

(a) DESIGNATION OF JUDGES.—* * *

(b) TERMS.—* * *

(c) CHIEF JUDGE.—* * *

(d) EXPEDITIOUS AND CONFIDENTIAL NATURE OF PROCEEDINGS.—* * *

(e) ESTABLISHMENT OF PANEL OF SPECIAL ATTORNEYS.—* * *

SEC. 503.[10] REMOVAL COURT PROCEDURE.

(a) APPLICATION.—

(1) IN GENERAL.—In any case in which the Attorney General has classified information that an alien is an alien terrorist, the Attorney General may seek removal of the alien under this title by filing an application with the removal court that contains—

(A) the identity of the attorney in the Department of Justice making the application;

(B) a certification by the Attorney General or the Deputy Attorney General that the application satisfies the criteria and requirements of this section;

(C) the identity of the alien for whom authorization for the removal proceeding is sought; and

(D) a statement of the facts and circumstances relied on by the Department of Justice to establish probable cause that—

(i) the alien is an alien terrorist;

(ii) the alien is physically present in the United States; and

(iii) with respect to such alien, removal under title II would pose a risk to the national security of the United States.

(2) FILING.—* * *

(b) RIGHT TO DISMISS.—The Attorney General may dismiss a removal action under this title at any stage of the proceeding.

(c) CONSIDERATION OF APPLICATION.—

(1) BASIS FOR DECISION.—In determining whether to grant an application under this section, a single judge of the removal court may consider, ex parte and in camera, in addition to the information contained in the application—

(A) other information, including classified information, presented under oath or affirmation; and

(B) testimony received in any hearing on the application, of which a verbatim record shall be kept.

(2) APPROVAL OF ORDER.—The judge shall issue an order granting the application, if the judge finds that there is probable cause to believe that—

(A) the alien who is the subject of the application has been correctly identified and is an alien terrorist present in the United States; and

[9] 8 U.S.C. 1532.

[10] 8 U.S.C. 1533.

(B) removal under title II would pose a risk to the national security of the United States.

(3) DENIAL OF ORDER.—If the judge denies the order requested in the application, the judge shall prepare a written statement of the reasons for the denial, taking all necessary precautions not to disclose any classified information contained in the Government's application.

(d) EXCLUSIVE PROVISIONS.—If an order is issued under this section granting an application, the rights of the alien regarding removal and expulsion shall be governed solely by this title, and except as they are specifically referenced in this title, no other provisions of this Act shall be applicable.

SEC. 504.[11] REMOVAL HEARING.

(a) IN GENERAL.—

(1) EXPEDITIOUS HEARING.—In any case in which an application for an order is approved under section 503(c)(2), a removal hearing shall be conducted under this section as expeditiously as practicable for the purpose of determining whether the alien to whom the order pertains should be removed from the United States on the grounds that the alien is an alien terrorist.

(2) PUBLIC HEARING.—The removal hearing shall be open to the public.

(b) NOTICE.—* * *

(c) RIGHTS IN HEARING.—* * *

(d) SUBPOENAS.—* * *

(e) DISCOVERY.—* * *

(f) ARGUMENTS.—* * *

(g) BURDEN OF PROOF.—In the hearing, it is the Government's burden to prove, by the preponderance of the evidence, that the alien is subject to removal because the alien is an alien terrorist.

(h) RULES OF EVIDENCE.—The Federal Rules of Evidence shall not apply in a removal hearing.

(i) DETERMINATION OF DEPORTATION.—If the judge, after considering the evidence on the record as a whole, finds that the Government has met its burden, the judge shall order the alien removed and detained pending removal from the United States. If the alien was released pending the removal hearing, the judge shall order the Attorney General to take the alien into custody.

(j) WRITTEN ORDER.—At the time of issuing a decision as to whether the alien shall be removed, the judge shall prepare a written order containing a statement of facts found and conclusions of law. Any portion of the order that would reveal the substance or source of information received in camera and ex parte pursuant to subsection (e) shall not be made available to the alien or the public.

(k) NO RIGHT TO ANCILLARY RELIEF.—* * *

SEC. 505.[12] APPEALS.

(a) APPEAL OF DENIAL OF APPLICATION FOR REMOVAL PROCEEDINGS.—* * *

(b) APPEAL OF DETERMINATION REGARDING SUMMARY OF CLASSIFIED INFORMATION.—* * *

(c) APPEAL OF DECISION IN HEARING.—* * *

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[11] 8 U.S.C. 1534.

[12] 8 U.S.C. 1535.

(d) CERTIORARI.—* * *

(e) APPEAL OF DETENTION ORDER.—* * *

SEC. 506.[13] CUSTODY AND RELEASE PENDING REMOVAL HEARING.

(a) UPON FILING APPLICATION.—* * *

(b) CONDITIONAL RELEASE IF ORDER DENIED AND REVIEW SOUGHT.—* * *

SEC. 507.[14] CUSTODY AND RELEASE AFTER REMOVAL HEARING.

(a) RELEASE.—* * *

(b) CUSTODY AND REMOVAL.—

(1) CUSTODY.—If the judge decides that an alien shall be removed, the alien shall be detained pending the outcome of any appeal. After the conclusion of any judicial review thereof which affirms the removal order, the Attorney General shall retain the alien in custody and remove the alien to a country specified under paragraph (2).

(2) REMOVAL.—

(A) IN GENERAL.—The removal of an alien shall be to any country which the alien shall designate if such designation does not, in the judgment of the Attorney General, in consultation with the Secretary of State, impair the obligation of the United States under any treaty (including a treaty pertaining to extradition) or otherwise adversely affect the foreign policy of the United States.

(B) ALTERNATE COUNTRIES.—If the alien refuses to designate a country to which the alien wishes to be removed or if the Attorney General, in consultation with the Secretary of State, determines that removal of the alien to the country so designated would impair a treaty obligation or adversely affect United States foreign policy, the Attorney General shall cause the alien to be removed to any country willing to receive such alien.

(C) CONTINUED DETENTION.—If no country is willing to receive such an alien, the Attorney General may, notwithstanding any other provision of law, retain the alien in custody. The Attorney General, in coordination with the Secretary of State, shall make periodic efforts to reach agreement with other countries to accept such an alien and at least every 6 months shall provide to the attorney representing the alien at the removal hearing a written report on the Attorney General's efforts. Any alien in custody pursuant to this subparagraph shall be released from custody solely at the discretion of the Attorney General and subject to such conditions as the Attorney General shall deem appropriate.

(D) FINGERPRINTING.—Before an alien is removed from the United States pursuant to this subsection, or pursuant to an order of removal because such alien is inadmissible under section 212(a)(3)(B), the alien shall be photographed and fingerprinted, and shall be advised of the provisions of section 276(b).

(c) CONTINUED DETENTION PENDING TRIAL.—

[13] 8 U.S.C. 1536.

[14] 8 U.S.C. 1537.

(1) DELAY IN REMOVAL.—* * *The Attorney General may hold in abeyance the removal of an alien who has been ordered removed, pursuant to this title, to allow the trial of such alien on any Federal or State criminal charge and the service of any sentence of confinement resulting from such a trial.

(2) MAINTENANCE OF CUSTODY.—Pending the commencement of any service of a sentence of confinement by an alien described in paragraph (1), such an alien shall remain in the custody of the Attorney General, unless the Attorney General determines that temporary release of the alien to the custody of State authorities for confinement in a State facility is appropriate and would not endanger national security or public safety.

(3) SUBSEQUENT REMOVAL.—Following the completion of a sentence of confinement by an alien described in paragraph (1), or following the completion of State criminal proceedings which do not result in a sentence of confinement of an alien released to the custody of State authorities pursuant to paragraph (2), such an alien shall be returned to the custody of the Attorney General who shall proceed to the removal of the alien under this title.

(d) APPLICATION OF CERTAIN PROVISIONS RELATING TO ESCAPE OF PRISONERS.—* * *

(e) RIGHTS OF ALIENS IN CUSTODY.—* * *

2. Middle East Activities

a. 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 Pales-

tinian 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;

(iii) renounce the use of terrorism and other acts of violence;

[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).

(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:

(1) Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) 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) 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).

(4) Section 37 of the Bretton Woods Agreement Act (22 U.S.C. 286W) 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:

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[2] In a 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. 96–20 of April 1, 1996; 61 F.R. 26019).

This certification was extended in Presidential Determination No. 96–32 of June 14, 1996 (61 F.R. 32629); Presidential Determination No. 96–41 of August 12, 1996 (61 F.R. 43137); and Presidential Determination No. 97–17 of February 21, 1997 (62 F.R. 9903).

This most recent determination extends the suspension through August 12, 1997.

(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 inserting "January 1, 1996".

(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—

(1) in the matter preceding paragraph (1), by striking "section (3)(b)(1) of the Middle East Peace Facilitation Act of 1994" 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".

b. 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, as amended

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 pe-

[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 sub-

Continued

riod, 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;

(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

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mitted 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.

(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:

(1) Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) 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) 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).

(4) Section 37 of the Bretton Woods Agreement Act (22 U.S.C. 286w) 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 Inter-

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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] 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).

This certification was extended in Presidential Determination No. 94–30 of June 30, 1994 (59 F.R. 35607); Presidential Determination No. 95–12 of December 31, 1994 (60 F.R. 2673); Presidential Determination No. 95–31 of July 2, 1995 (60 F.R. 35827); Presidential Determination No. 95–36 of August 14, 1995 (60 F.R. 44725); Presidential Determination No. 95–50 of September 30, 1995 (60 F.R. 53093; Presidential Determination No. 96–5 of November 13, 1995 (60 F.R. 57821); Presidential Determination No. 96–8 of January 4, 1996 (61 F.R. 2889); Presidential Determination No. 96–20 of April 1, 1996 (61 F.R. 26019); Presidential Determination No. 96–32 of June 14, 1996 (61 F.R. 32629); Presidential Determination No. 96–41 of August 12, 1996 (61 F.R. 43137); andPresidential Determination No. 97–17 of February 21, 1997 (62 F.R. 9903).

This most recent determination extends the suspension through August 12, 1997.

national 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;[5] and

(2) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

[5] 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.

c. PLO Commitments Compliance Act of 1989

Title VIII of Public Law 101–246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15 at 76, approved February 16, 1990, as amended

AN ACT To authorize appropriations for fiscal years 1990 and 1991 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,

* * * * * * *

TITLE VIII–PLO COMMITMENTS COMPLIANCE ACT OF 1989 [1]

SEC. 801. SHORT TITLE.

This title may be cited as the "PLO Commitments Compliance Act of 1989".

SEC. 802. FINDINGS.

The Congress finds that—

(1) United States policy regarding contacts with the Palestine Liberation Organization (including its Executive Committee, the Palestine National Council, and any constituent groups related thereto (hereafter in this title referred to as the "PLO")) set forth in the Memorandum of Agreement between the United States and Israel, dated September 1, 1975, stated that the United States "will not recognize or negotiate with the Palestine Liberation Organization so long as the PLO does not recognize Israel's right to exist and does not accept United Nations Security Council Resolutions 242 and 338";

(2) section 1302 of the International Security and Development Cooperation Act of 1985 (22 U.S.C. 2151 note; Public Law 99–83), effective October 1, 1985, stated that "no officer or employee of the United States Government and no agent or other individual acting on behalf of the United States Government shall negotiate with the PLO or any representatives thereof (except in emergency or humanitarian situations) unless and until the PLO recognizes Israel's right to exist, accepts United Nations Security Council Resolutions 242 and 338, and renounces the use of terrorism";

(3) the Department of State statement of November 26, 1988, found that "the United States Government has convincing evidence that PLO elements have engaged in terrorism against Americans and others" and that "Mr. [Yasser] Arafat, Chairman of the PLO, knows of, condones, and lends support to such acts; he therefore is an accessory to such terrorism";

[1] On March 14, 1990, the President designated and empowered "the Secretary of State to perform, without the approval, ratification, or other approval of the President, the functions of the President set forth in Title VIII of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; Public Law 101–246." (55 F.R. 11131).

(4) Secretary of State Shultz declared on December 14, 1988, that "the [PLO] today issued a statement in which it accepted United Nations Security Council Resolutions 242 and 338, recognized Israel's right to exist in peace and security, and renounced terrorism. As a result, the United States is prepared for a substantive dialogue with PLO representatives";

(5) President Ronald Reagan, subsequent to the decision to open a United States-PLO dialogue, stated that the PLO "must demonstrate that its renunciation of terrorism is pervasive and permanent" and if the PLO reneges on its commitments, the United States "will certainly break off communications";

(6) since the United States agreed to enter into a dialogue with the PLO, there have been several attempted incursions into Israel by the following PLO-affiliated groups: the Popular Struggle Front, the Palestine Liberation Front, the Democratic Front for the Liberation of Palestine, and the Islamic Jihad group;

(7) Yasser Arafat has not renounced any of these incidents, that he has threatened "ten bullets in the chest" to those Palestinians who advocate a cessation of the unrest, and that his principal deputy, Abu Iyad, as well as other senior Al-Fatah figures, have been quoted as saying that the PLO recognition of Israel and renunciation of terrorism is merely tactical and that a Palestinian state is but the first step in the "liberation of Palestine";

(8)[2] the President, following an attempted terrorist attack upon a Tel Aviv beach on May 30, 1990, suspended the United States dialogue with the PLO;

(9)[2] the President resumed the United States dialogue with the PLO in response to the commitments made by the PLO in letters to the Prime Minister of Israel and the Foreign Minister of Norway of September 9, 1993; and

(10)[3] that the United States should regularly evaluate the PLO's compliance with the commitments made by Yasser Arafat on behalf of the PLO in Geneva on December 14, 1988 and on September 9, 1993.[4]

SEC. 803. POLICY.

(a) IN GENERAL.—The Congress reiterates long-standing United States policy that any dialogue with the PLO be contingent upon the PLO's recognition of Israel's right to exist, its acceptance of United Nations Security Council Resolutions 242 and 338, and its abstention from and renunciation of all acts of terrorism.

(b) POLICY TOWARD IMPLEMENTATION OF PLO COMMITMENTS.—It is the sense of the Congress that the United States, in any discussions with the PLO, should seek—

(1) the prevention of terrorism and other violent activity by the PLO or any of its factions; and

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[2] Sec. 524(7) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 473), added paras. (8) and (9).

[3] Sec. 524(5) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 473), redesignated former para. (8) as para. (10).

[4] Sec. 524(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 473), inserted "and on September 9, 1993".

(2) the implementation of concrete steps by the PLO consistent with its commitments to recognize Israel and renounce terrorism, including concrete actions that will further the peace process such as—

(A) disbanding units which have been involved in terrorism;

(B) publicly condemning all acts of terrorism;

(C) ceasing the intimidation of Palestinians who advocate a cessation of or who do not support the unrest;

(D) calling on the Arab states to recognize Israel and to end their economic boycott of Israel; and

(E) amending the PLO's Covenant to remove provisions which undermine Israel's legitimacy and which call for Israel's destruction.

(c) POLICY TOWARD RECENT ARMED INCURSIONS INTO ISRAEL BY PLO-AFFILIATED GROUPS.—During the next round of talks with the PLO, should such talks occur after the date of enactment of this Act, the representative of the United States should obtain from the representative of the PLO a full accounting of the following attempted incursions into Israel which occurred after Yasser Arafat's statement of December 14, 1988:

(1) On December 26, 1988, an attempted armed infiltration into Israel by boat by four members of the PLO-affiliated Popular Struggle Front.

(2) On December 28, 1988, an attempted armed infiltration into Israel by three members of the PLO-affiliated Palestine Liberation Front.

(3) On January 24, 1989, an unprovoked attack on an Israeli patrol in Southern Lebanon by the PLO-affiliated Palestine Liberation Front.

(4) On February 5, 1989, an attempted armed infiltration into Israel by nine members of the PLO-affiliated Palestine Liberation Front and Popular Front for the Liberation of Palestine.

(5) On February 23, 1989, an attempted attack on targets in Israel by members of the PLO-affiliated Democratic Front for the Liberation of Palestine.

(6) On February 27, 1989, a PLO-affiliated Popular Front for the Liberation of Palestine ambush of a pro-Israeli Southern Lebanese army vehicle.

(7) On March 2, 1989, an attempted armed infiltration into Israel by four members of the PLO-affiliated Democratic Front for the Liberation of Palestine headed for the civilian town of Zarit.

(8) On March 13, 1989, an attempted armed infiltration into Israel by three members of the PLO-aligned Palestine Liberation Front.

(9) On March 15, 1989, an attempted attack on Israel through Gaza by two members of the Islamic Jihad group.

SEC. 804. REPORTING REQUIREMENT.

(a) REPORT ON ARMED INCURSIONS.—In the event that talks are held with the PLO after the date of enactment of this Act, the Secretary of State, shall, within 30 days after the next round of such

talks, report to the Chairman of the Committee on Foreign Affairs[5] of the Senate and the Speaker of the House of Representatives any accounting provided by the representative of the PLO of the incidents described in section 803(c).

(b) REPORT ON COMPLIANCE WITH COMMITMENTS.—In conjunction with each written policy justification required under section 583(b)(1) of the Middle East Peace Facilitation Act of 1994[6] or every 180 days,,[7] the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report, in unclassified form to the maximum extent practicable, regarding progress toward the achievement of the measures described in section 803(b). Such report shall include—

(1) a description of actions or statements by the PLO as an organization, its Chairman, members of its Executive Committee, members of the Palestine National Council, or any constituent groups related thereto, as they relate to the Geneva commitments of December 1988 and each of the commitments described in section 584(a) of the Middle East Peace Facilitation Act of 1994[8] (Oslo commitments),[9] including actions or statements that contend that the declared "Palestinian state" encompasses all of Israel;

(2) a description of the steps, if any, taken by the PLO to evict or otherwise discipline individuals or groups taking actions inconsistent with the Geneva and Oslo[10] commitments;

(3) a statement of whether the PLO, in accordance with procedures in Article 33 of the Palestinian National Covenant, has repealed provisions in that Covenant which call for Israel's destruction;

(4) a statement of whether the PLO has repudiated its "strategy of stages" whereby it seeks to use a Palestinian state in the West Bank and Gaza as the first step in the total elimination of the state of Israel;

(5) a statement of whether the PLO has called on any Arab state to recognize and enter direct negotiations with Israel or to end its economic boycott of Israel;

(6) a statement of whether "Force 17" and the "Hawari Group", units directed by Yasser Arafat that have carried out terrorist attacks, have been disbanded and not reconstituted under different names;

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[5] As enrolled. Should read "Committee on Foreign Relations".

[6] Sec. 1(kk)(10 of Public Law 103–415 (108 Stat. 4303) struck out "section (3)(b)(1) of the Middle East Peace Facilitation Act of 1994" and inserted in lieu thereof "section 583(b)(1) of the Middle East Peace Facilitation Act of 1994".

[7] Sec. 524(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 473), struck out "Beginning 30 days after the date of enactment of this Act, and every 120 days thereafter in which the dialogue between the United States and the PLO has not been discontinued" and inserted in lieu thereof "In conjunction with each written policy justification required under section (3)(b)(1) of the Middle East Peace Facilitation Act of 1994 or every 180 days," [resulting in a double comma].

[8] Sec. 1(kk)(2) of Public Law 103–415 (108 Stat. 4303) struck out "section (4)(a) of the Middle East Peace Facilitation Act of 1994" and inserted in lieu thereof "section 584(a) of the Middle East Peace Facilitation Act of 1994".

[9] Sec. 524(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 473), struck out "regarding [the] cessation of terrorism and recognition of Israel's right to exist" and inserted in lieu thereof "and each of the commitments described in section (4)(A) of the Middle East Peace Facilitation Act of 1994 (Oslo commitments)".

[10] Sec. 524(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 473), inserted "and Oslo" after "Geneva".

(7) a statement of whether the following PLO constituent groups conduct or participate in terrorist or other violent activities: the Fatah; the Popular Front for the Liberation of Palestine; the Democratic Front for the Liberation of Palestine; the Arab Liberation Front; the Palestine Liberation Front;

(8) a statement of the PLO's position on the unrest in the West Bank and Gaza, and whether the PLO threatens, through violence or other intimidation measures, Palestinians in the West Bank and Gaza who advocate a cessation of or who do not support the unrest, and who might be receptive to taking part in elections there;

(9) a statement of the position of the PLO regarding the prosecution and extradition, if so requested, of known terrorists such as Abu Abbas, who directed the Achille Lauro hijacking during which Leon Klinghoffer was murdered, and Muhammed Rashid, implicated in the 1982 bombing of a PanAm jet and the 1986 bombing of a TWA jet in which four Americans were killed; [11]

(10) a statement of the position of the PLO on providing compensation to the American victims or the families of American victims of PLO terrorism; and [11]

(11) [11] measures taken by the PLO to prevent acts of terrorism, crime and hostilities and to legally punish offenders, as called for in the Gaza-Jericho agreement of May 4, 1994.

(c) REPORT ON POLICIES OF ARAB STATES.—Not more than 30 days after the date of enactment of this Act, the Secretary of State shall prepare and submit to the Congress a report concerning the policies of Arab states toward the Middle East peace process, including progress toward—

(1) public recognition of Israel's right to exist in peace and security;

(2) ending the Arab economic boycott of Israel; and

(3) ending efforts to expel Israel from international organizations or denying participation in the activities of such organizations.

[11] Sec. 574 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1653), replaced "; and" in para. (9) with a semicolon; struck out the period at the end of para. (10) and inserted in lieu thereof "; and"; and added a new para. (11).

d. Anti-Terrorism Act of 1987

Title X of Public Law 100–204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1406, approved December 22, 1987

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes.

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

* * * * * * *

TITLE X—ANTI-TERRORISM ACT OF 1987

SEC. 1001. SHORT TITLE.

This title may be cited as the "Anti-Terrorism Act of 1987".

SEC. 1002.[1] FINDINGS; DETERMINATIONS.

(a) FINDINGS.—The Congress finds that—

(1) Middle East terrorism accounted for 60 percent of total international terrorism in 1985;

(2) the Palestine Liberation Organization (hereafter in this title referred to as the "PLO") was directly responsible for the murder of an American citizen on the Achille Lauro cruise liner in 1985, and a member of the PLO's Executive Committee is under indictment in the United States for the murder of that American citizen;

(3) the head of the PLO has been implicated in the murder of a United States Ambassador overseas;

(4) the PLO and its constituent groups have taken credit for, and been implicated in, the murders of dozens of American citizens abroad;

(5) the PLO covenant specifically states that "armed struggle is the only way to liberate Palestine, thus it is an overall strategy, not merely a tactical phase";

(6) the PLO rededicated itself to the "continuing struggle in all its armed forms" at the Palestine National Council meeting in April 1987; and

(7) the Attorney General has stated that "various elements of the Palestine Liberation Organization and its allies and affiliates are in the thick of international terror".

(b) DETERMINATIONS.—Therefore, the Congress determines that the PLO and its affiliates are a terrorist organization and a threat to the interests of the United States, its allies, and to international law and should not benefit from operating in the United States.

[1] 22 U.S.C. 5201.

SEC. 1003.[2] PROHIBITIONS REGARDING THE PLO.

It shall be unlawful, if the purpose be to further the interests of the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof, on or after the effective date of this title—

(1) to receive anything of value except informational material from the PLO or any of its constituent groups, any successor thereto, or any agents thereof;

(2) to expend funds from the PLO or any of its constituent groups, any successor thereto, or any agents thereof; or

(3) notwithstanding any provision of law to the contrary, to establish or maintain an office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States at the behest or direction of, or with funds provided by the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof.

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[2] 22 U.S.C. 5202. In a memorandum for the Secretary of State, issued on January 14, 1994, the President, pursuant to the authority stated in the Middle East Peace Facilitation Act of 1993 (Public Law 103–125):

"(A) certif[ied] that it is in the national interest to suspend the application of the following provisions of law until July 1, 1994:

"(1) Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227), 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), 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); and

"(4) Section 37 of the Bretton Woods Agreement [sic] Act (22 U.S.C. 286w), as it applies to the granting of the Palestine Liberation Organization of observer status or other official status at any meeting sponsored by or associated with the International Monetary Fund.

"(B) certif[ied] that the Palestine Liberation Organization continues to abide by its commitments: 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; and in, and resulting from the implementation of the Declaration of Principles on interim self-government arrangements signed on September 13, 1993.

"II. Pursuant to the authority vested in me by section 516 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, Public Law 103–87, I hereby determine that the suspension of section 516(a) of that Act with respect to the Palestine Liberation Organization (PLO), programs for the PLO, and programs for the benefit of entities associated with it, which accept the commitments made by the PLO on September 9, 1993, is in the national interest." (Presidential Determination No. 94–13 of January 14, 1994; 59 F.R. 4777).

This certification was extended in Presidential Determination No. 94–30 of June 30, 1994 (59 F.R. 35607); Presidential Determination No. 95–12 of December 31, 1994 (60 F.R. 2673); Presidential Determination No. 95–31 of July 2, 1995 (60 F.R. 35827); Presidential Determination No. 95–36 of August 14, 1995 (60 F.R. 44725); Presidential Determination No. 95–50 of September 30, 1995 (60 F.R. 53093; Presidential Determination No. 96–5 of November 13, 1995 (60 F.R. 57821); Presidential Determination No. 96–8 of January 4, 1996 (61 F.R. 2889); Presidential Determination No. 96–20 of April 1, 1996 (61 F.R. 26019); Presidential Determination No. 96–32 of June 14, 1996 (61 F.R. 32629); Presidential Determination No. 96–41 of August 12, 1996 (61 F.R. 43137); andPresidential Determination No. 97–17 of February 21, 1997 (62 F.R. 9903).

This most recent determination extends the suspension through August 12, 1997.

Sec. 583(c) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 490), authorized the suspension of provisions in this section when certain conditions were met. See particularly sec. 583(a) of that Act.

Pursuant to the authority vested in the President under section 540(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (Public Law 105–277), the provisions of sec. 1003 of this Act were waived until October 21, 1999 in Presidential Determination No. 99–25 of May 24, 1999 (64 F.R. 29537). The provisions of this section were previously waived in Presidential Determination No. 99–5 of November 25, 1998 (63 F.R. 68145); Presidential Determination No. 98–29 of June 3, 1998 (63 F.R. 32711); and in Presidential Determination No. 98–8 of December 5, 1997 (64 F.R. 29537).

SEC. 1004.[3] ENFORCEMENT.

(a) ATTORNEY GENERAL.—The Attorney General shall take the necessary steps and institute the necessary legal action to effectuate the policies and provisions of this title.

(b) RELIEF.—Any district court of the United States for a district in which a violation of this title occurs shall have authority, upon petition of relief by the Attorney General, to grant injunctive and such other equitable relief as it shall deem necessary to enforce the provisions of this title.

SEC. 1005. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—Provisions of this title shall take effect 90 days after the date of enactment of this Act.

(b) TERMINATION.—The provisions of this title shall cease to have effect if the President certifies in writing to the President pro tempore of the Senate and the Speaker of the House that the Palestine Liberation Organization, its agents, or constituent groups thereof no longer practice or support terrorist actions anywhere in the world.

[3] 22 U.S.C. 5203.

3. National Emergencies Act, as amended

Public Law 94–412 [H.R. 3884], 90 Stat. 1255, approved September 14, 1976; Public Law 95–223 [International Emergency Economic Powers Act, H.R. 7738], 91 Stat. 1625, approved December 28, 1977; and by Public Law 99–93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 448, approved August 16, 1985

AN ACT To terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies.

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 "National Emergencies Act".

TITLE I—TERMINATING EXISTING DECLARED EMERGENCIES

SEC. 101.[1] (a) All powers and authorities possessed by the President, any other officer or employee of the Federal Government, or any executive agency, as defined in section 105 of title 5, United States Code, as a result of the existence of this Act are terminated two years from the date of such enactment. Such termination shall not affect—

(1) any action taken or proceeding pending not finally concluded or determined on such date;

(2) any action or proceeding based on any act committed prior to such date; or

(3) any rights or duties that matured or penalties that were incurred prior to such date.

(b) For the purpose of this section, the words "any national emergency in effect" means a general declaration of emergency made by the President.

TITLE II—DECLARATIONS OF FUTURE NATIONAL EMERGENCIES

SEC. 201.[2] (a) With respect to Acts of Congress authorizing the exercise, during the period of a national emergency, of any special or extraordinary power, the President is authorized to declare such national emergency. Such proclamation shall immediately be transmitted to the Congress and published in the Federal Register.

(b) Any provisions of law conferring powers and authorities to be exercised during a national emergency shall be effective and remain in effect (1) only when the President (in accordance with subsection (a) of this section), specifically declares a national emergency, and (2) only in accordance with this Act. No law enacted after the date of enactment of this Act shall supersede this title un-

[1] 50 U.S.C. 1601.
[2] 50 U.S.C. 1621.

less it does so in specific terms, referring to this title, and declaring that the new law supersedes the provisions of this title.

SEC. 202.[3] (a) Any national emergency declared by the President in accordance with this title shall terminate if—

(1) there is enacted into law a joint resolution terminating the emergency; or

(2) the President issues a proclamation terminating the emergency.

Any national emergency declared by the President shall be terminated on the date specified in any joint resolution referred to in clause (1) or on the date specified in a proclamation by the President terminating the emergency as provided in clause (2) of this subsection, whichever date is earlier, and any powers or authorities exercised by reason of said emergency shall cease to be exercised after such specified date, except that such termination shall not affect—

(A) any action taken or proceeding pending not finally concluded or determined on such date;

(B) any action or proceeding based on any act committed prior to such date; or

(C) any rights or duties that matured or penalties that were incurred prior to such date.

(b) Not later than six months after a national emergency is declared, and not later than the end of each six-month period thereafter that such emergency continues, each House of Congress shall meet to consider a vote on a joint resolution to determine whether that emergency shall be terminated.

(c)(1) A joint resolution to terminate a national emergency declared by the President shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be. One such joint resolution shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee, unless such House shall otherwise determine by the yeas and nays.

(2) Any joint resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

(3) Such a joint resolution passed by one House shall be referred to the appropriate committee of the other House and shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee and shall thereupon become the pending business of such House and shall be voted upon within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

[3] 50 U.S.C. 1622. References to a "joint" resolution instead of a "concurrent" resolution in this section were added by sec. 801 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 448).

(4) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such joint resolution within six calendar days after the day on which managers on the part of the Senate and the House have been appointed. Notwithstanding any rule in either House concerning the printing of conference reports or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed in the House in which such report is filed first. In the event the conferees are unable to agree within forty-eight hours, they shall report back to their respective houses in disagreement.

(5) Paragraphs (1)–(4) of this subsection, subsection (b) of this section, and section 502(b) of this Act are enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; with

(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.

(d) Any national emergency declared by the President in accordance with this title, and not otherwise previously terminated, shall terminate on the anniversary of the declaration of that emergency if, within the ninety-day period prior to each anniversary date, the President does not publish in the Federal Register and transmit to the Congress a notice stating that such emergency is to continue in effect after such anniversary.

TITLE III—EXERCISE OF EMERGENCY POWERS AND AUTHORITIES

SEC. 301.[4] When the President declares a national emergency, no powers or authorities made available by statute for use in the event of an emergency shall be exercised unless and until the President specifies the provisions of law under which he proposes that he, or other officers will act. Such specification may be made either in the declaration of a national emergency, or by one or more contemporaneous or subsequent Executive orders published in the Federal Register and transmitted to the Congress.

TITLE IV—ACCOUNTABILITY AND REPORTING REQUIREMENTS OF THE PRESIDENT

SEC. 401.[5] (a) When the President declares a national emergency, or Congress declares war, the President shall be responsible for maintaining a file and index of all significant orders of the President, including Executive orders and proclamations, and each Exec-

[4] 50 U.S.C. 1631.
[5] 50 U.S.C. 1641.

utive agency shall maintain a file and index of all rules and regulations, issued during such emergency or war issued pursuant to such declarations.

(b) All such significant orders of the President, including Executive orders, and such rules and regulations shall be transmitted to the Congress promptly under means to assure confidentiality where appropriate.

(c) When the President declares a national emergency or Congress declares war, the President shall transmit to Congress, within ninety days after the end of each six-month period after such declarations, a report on the total expenditures incurred by the United States Government during such six-month period which are directly attributable to the exercise of powers and authorities conferred by such declaration. Not later than ninety days after the termination of each such emergency or war, the President shall transmit a final report on all such expenditures.

TITLE V—REPEAL AND CONTINUATION OF CERTAIN EMERGENCY POWER AND OTHER STATUTES

SEC. 501. (a) Section 349(a) of the Immigration and Nationality Act (8 U.S.C. 148(a)) is amended—

(1) at the end of paragraph (9), by striking out "; or" and inserting in lieu thereof a period; and

(2) by striking out paragraph (10).

(b) Section 2667(b) of title 10 of the United States Code is amended—

(1) by inserting "and" at the end of paragraph (3);

(2) by striking out paragraph (4); and

(3) by redesignating paragraph (5) and (4).

(c) The joint resolution entitled "Joint resolution to authorize the temporary continuation of regulation of consumer credit", approved August 8, 1947 (12 U.S.C. 249), is repealed.

(d) Section 5(m) of the Tennessee Valley Authority Act of 1933 as amended (16 U.S.C. 831d(m)) is repealed.

(e) Section 1383 of title 18, United States Code, is repealed.

(f) Section 6 of the Act entitled "An Act to amend the Public Health Service Act is regard to certain matters of personnel and administration, and for other purposes", approved February 28, 1948, is amended by striking out subsections (b), (c), (d), (e), and (f) (42 U.S.C. 211b).

(g) Section 9 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742) is repealed.

(h) This section shall not affect—

(1) any action taken or proceeding pending not finally concluded or determined at the time of repeal;

(2) any action or proceeding based on any act committed prior to repeal; or

(3) any rights or duties that matured or penalties that were incurred prior to repeal;

SEC. 502.[6] (a) The provisions of this Act shall not apply to the following provisions of law, the powers and authorities conferred thereby, and actions taken thereunder:

[6] 50 U.S.C. 1651.

(1) * * * [Repealed—1977][7]

(2) Act of April 28, 1942 (40 U.S.C. 278b);

(3) Act of June 30, 1949 (41 U.S.C. 252);

(4) Section 3477 of the Revised Statutes, as amended (31 U.S.C. 203);

(5) Section 3737 of the Revised Statutes, as amended (41 U.S.C. 15);

(6) Public Law 85–804 (Act of Aug. 28, 1958, 72 Stat. 972; 50 U.S.C. 1431–1435);

(7) Section 2304(a)(1) of title 10, United States Code;

(8) Section 3313, 6386(c), and 8313 of title 10, United States Code.

(b) Each committee of the House of Representatives and the Senate having jurisdiction with respect to any provision of law referred to in subsection (a) of this section shall make a complete study and investigation concerning that provision of law and make a report, including any recommendations and proposed revisions such committee may have, to its respective House of Congress within two hundred and seventy days after the date of enactment of this Act.

[7] Paragraph (1), which contained a reference to sec. 5(b) of the Trading With the Enemy Act, was repealed by sec. 101(d) of Public Law 95–223 (91 Stat. 1625).

4. Chemical Weapons Convention Implementation Act of 1998.

Partial text of Division I of Public Law 105–277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999; H.R. 4328], 112 Stat. 2681–856 at 872, approved October 21, 1998

DIVISION I—CHEMICAL WEAPONS CONVENTION

SECTION 1. [1] SHORT TITLE.

This Division may be cited as the "Chemical Weapons Convention Implementation Act of 1998".

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TITLE III—INSPECTIONS

* * * * * * *

SEC. 303. [2] AUTHORITY TO CONDUCT INSPECTIONS.

(a) Prohibition.—* * *

(b) Authority.—

(1) TECHNICAL SECRETARIAT INSPECTION TEAMS.—* * *

(2) UNITED STATES GOVERNMENT REPRESENTATIVES.—* * *

(3) OBJECTIONS TO INDIVIDUALS SERVING AS INSPECTORS.—

(A) IN GENERAL.—In deciding whether to exercise the right of the United States under the Convention to object to an individual serving as an inspector, the President shall give great weight to his reasonable belief that—

(i) such individual is or has been a member of, or a participant in, any group or organization that has engaged in, or attempted or conspired to engage in, or aided or abetted in the commission of, any terrorist act or activity;

(ii) such individual has committed any act or activity which would be a felony under the laws of the United States; or

(iii) the participation of such individual as a member of an inspection team would pose a risk to the national security or economic well-being of the United States. * * *

[1] 22 USC 6701 note.
[2] 22 USC 6723.

H. EXECUTIVE ORDERS

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1. Blocking Property and Prohibiting Transactions with the Taliban

Executive Order 13129, July 4, 1999, 64 F.R. 36759

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)("IEEPA"), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3, United States Code,

I, WILLIAM J. CLINTON, President of the United States of America, find that the actions and policies of the Taliban in Afghanistan, in allowing territory under its control in Afghanistan to be used as a safe haven and base of operations for Usama bin Ladin and the Al-Qaida organization who have committed and threaten to continue to commit acts of violence against the United States and its nationals, constitute an unusual and extraordinary threat to the national security and foreign policy of the United States, and hereby declare a national emergency to deal with that threat.

I hereby order:

Section 1. Except to the extent provided in section 203(b) of IEEPA (50 U.S.C. 1702(b)) and in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date:

(a) all property and interests in property of the Taliban; and

(b) all property and interests in property of persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General:

(i) to be owned or controlled by, or to act for or on behalf of, the Taliban; or

(ii) to provide financial, material, or technological support for, or services in support of, any of the foregoing, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, are blocked.

Sec. 2. Except to the extent provided in section 203(b) of IEEPA (50 U.S.C. 1702(b)) and in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date:

(a) any transaction or dealing by United States persons or within the United States in property or interests in property blocked pursuant to this order is prohibited, including the making or receiving of any contribution of funds, goods, or services to or for the benefit of the Taliban or persons designated pursuant to this order;

(b) the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person,

wherever located, of any goods, software, technology (including technical data), or services to the territory of Afghanistan controlled by the Taliban or to the Taliban or persons designated pursuant to this order is prohibited;

(c) the importation into the United States of any goods, software, technology, or services owned or controlled by the Taliban or persons designated pursuant to this order or from the territory of Afghanistan controlled by the Taliban is prohibited;

(d) any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order is prohibited; and

(e) any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 3. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby directed to authorize commercial sales of agricultural commodities and products, medicine, and medical equipment for civilian end use in the territory of Afghanistan controlled by the Taliban under appropriate safeguards to prevent diversion to military, paramilitary, or terrorist end users or end use or to political end use.

Sec. 4. For the purposes of this order:

(a) the term "person" means an individual or entity;

(b) the term "entity" means a partnership, association, corporation, or other organization, group, or subgroup;

(c) the term "the Taliban" means the political/military entity headquartered in Kandahar, Afghanistan that as of the date of this order exercises de facto control over the territory of Afghanistan described in paragraph (d) of this section, its agencies and instrumentalities, and the Taliban leaders listed in the Annex to this order or designated by the Secretary of State in consultation with the Secretary of the Treasury and the Attorney General. The Taliban is also known as the "Taleban," "Islamic Movement of Taliban," "the Taliban Islamic Movement," "Talibano Islami Tahrik," and "Tahrike Islami'a Taliban";

(d) the term "territory of Afghanistan controlled by the Taliban" means the territory referred to as the "Islamic Emirate of Afghanistan," known in Pashtun as "de Afghanistan Islami Emarat" or in Dari as "Emarat Islami-e Afghanistan," including the following provinces of the country of Afghanistan: Kandahar, Farah, Helmund, Nimruz, Herat, Badghis, Ghowr, Oruzghon, Zabol, Paktiha, Ghazni, Nangarhar, Lowgar, Vardan, Faryab, Jowlan, Balkh, and Paktika. The Secretary of State, in consultation with the Secretary of the Treasury, is hereby authorized to modify the description of the term "territory of Afghanistan controlled by the Taliban";

(e) the term "United States person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States.

Sec. 5. The Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to me by IEEPA as may

be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 6. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 7. (a) This order is effective at 12:01 a.m. Eastern Daylight Time on July 6, 1999.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

2. Blocking Sudanese Government Property and Prohibiting Transactions With Sudan

Executive Order 13067, November 3, 1997, 62 F.R. 59989

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3, United States Code;

I, WILLIAM J. CLINTON, President of the United States of America, find that the policies and actions of the Government of Sudan, including continued support for international terrorism; ongoing efforts to destabilize neighboring governments; and the prevalence of human rights violations, including slavery and the denial of religious freedom, constitute an unusual and extraordinary threat to the national security and foreign policy of the United States, and hereby declare a national emergency to deal with that threat. I hereby order:

Section 1. Except to the extent provided in section 203(b) of IEEPA (50 U.S.C. 1702(b)) and in regulations, orders, directives, or licenses that may be issued pursuant to this order, all property and interests in property of the Government of Sudan that are in the United States, that hereafter come within the United States, or that hereafter come within the possession or control of United States persons, including their overseas branches, are blocked.

Sec. 2. The following are prohibited, except to the extent provided in section 203(b) of IEEPA (50 U.S.C. 1702(b)) and in regulations, orders, directives, or licenses that may be issued pursuant to this order:

(a) the importation into the United States of any goods or services of Sudanese origin, other than information or informational materials;

(b) the exportation or reexportation, directly or indirectly, to Sudan of any goods, technology (including technical data, software, or other information), or services from the United States or by a United States person, wherever located, or requiring the issuance of a license by a Federal agency, except for donations of articles intended to relieve human suffering, such as food, clothing, and medicine;

(c) the facilitation by a United States person, including but not limited to brokering activities, of the exportation or reexportation of goods, technology, or services from Sudan to any destination, or to Sudan from any location;

(d) the performance by any United States person of any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in Sudan;

(e) the grant or extension of credits or loans by any United States person to the Government of Sudan;

(f) any transaction by a United States person relating to transportation of cargo to or from Sudan; the provision of transportation of cargo to or from the United States by any Sudanese person or any vessel or aircraft of Sudanese registration; or the sale in the United States by any person holding authority under subtitle 7 of title 49, United States Code, of any transportation of cargo by air that includes any stop in Sudan; and

(g) any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order.

Sec. 3. Nothing in this order shall prohibit:

(a) transactions for the conduct of the official business of the Federal Government or the United Nations by employees thereof; or

(b) transactions in Sudan for journalistic activity by persons regularly employed in such capacity by a news-gathering organization.

Sec. 4. For the purposes of this order:

(a) the term "person" means an individual or entity;

(b) the term "entity" means a partnership, association, trust, joint venture, corporation, or other organization;

(c) the term "United States person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States; and

(d) the term "Government of Sudan" includes the Government of Sudan, its agencies, instrumentalities and controlled entities, and the Central Bank of Sudan.

Sec. 5. The Secretary of the Treasury, in consultation with the Secretary of State and, as appropriate, other agencies, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to me by IEEPA, as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 6. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 7. (a) This order shall take effect at 12:01 a.m. eastern standard time on November 4, 1997, except that trade transactions under contracts in force as of the effective date of this order may be performed pursuant to their terms through 12:01 a.m. eastern standard time on December 4, 1997, and letters of credit and other financing agreements for such underlying trade transactions may be performed pursuant to their terms.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

3. Prohibiting Certain Transactions With Respect to Iran

Executive Order 13059, August 19, 1997, 62 F.R. 44531

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) ("IEEPA"), the National Emergencies Act (50 U.S.C. 1601 et seq.), section 505 of the International Security and Development Cooperation Act of 1985 (22 U.S.C. 2349aa-9) ("ISDCA"), and section 301 of title 3, United States Code,

I, WILLIAM J. CLINTON, President of the United States of America, in order to clarify the steps taken in Executive Orders 12957 of March 15, 1995, and 12959 of May 6, 1995, to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States declared in Executive Order 12957 in response to the actions and policies of the Government of Iran, hereby order:

Section 1. Except to the extent provided in section 3 of this order or in regulations, orders, directives, or licenses issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order, the importation into the United States of any goods or services of Iranian origin or owned or controlled by the Government of Iran, other than information or informational materials within the meaning of section 203(b)(3) of IEEPA (50 U.S.C. 1702(b)(3)), is hereby prohibited.

Sec. 2. Except to the extent provided in section 3 of this order, in section 203(b) of IEEPA (50 U.S.C. 1702(b)), or in regulations, orders, directives, or licenses issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order, the following are prohibited:

(a) the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of any goods, technology, or services to Iran or the Government of Iran, including the exportation, reexportation, sale, or supply of any goods, technology, or services to a person in a third country undertaken with knowledge or reason to know that:

(i) such goods, technology, or services are intended specifically for supply, transshipment, or reexportation, directly or indirectly, to Iran or the Government of Iran; or

(ii) such goods, technology, or services are intended specifically for use in the production of, for commingling with, or for incorporation into goods, technology, or services to be directly or indirectly supplied, transshipped, or reexported exclusively or predominantly to Iran or the Government of Iran;

(b) the reexportation from a third country, directly or indirectly, by a person other than a United States person of any goods, tech-

nology, or services that have been exported from the United States, if:

(i) undertaken with knowledge or reason to know that the reexportation is intended specifically for Iran or the Government of Iran, and

(ii) the exportation of such goods, technology, or services to Iran from the United States was subject to export license application requirements under any United States regulations in effect on May 6, 1995, or thereafter is made subject to such requirements imposed independently of the actions taken pursuant to the national emergency declared in Executive Order 12957; provided, however, that this prohibition shall not apply to those goods or that technology subject to export license application requirements if such goods or technology have been:

(A) substantially transformed into a foreign-made product outside the United States; or

(B) incorporated into a foreign-made product outside the United States if the aggregate value of such controlled United States goods and technology constitutes less than 10 percent of the total value of the foreign-made product to be exported from a third country;

(c) any new investment by a United States person in Iran or in property, including entities, owned or controlled by the Government of Iran;

(d) any transaction or dealing by a United States person, wherever located, including purchasing, selling, transporting, swapping, brokering, approving, financing, facilitating, or guaranteeing, in or related to:

(i) goods or services of Iranian origin or owned or controlled by the Government of Iran; or

(ii) goods, technology, or services for exportation, reexportation, sale, or supply, directly or indirectly, to Iran or the Government of Iran;

(e) any approval, financing, facilitation, or guarantee by a United States person, wherever located, of a transaction by a foreign person where the transaction by that foreign person would be prohibited by this order if performed by a United States person or within the United States; and

(f) any transaction by a United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order.

Sec. 3. Specific licenses issued pursuant to Executive Orders 12613 (of October 29, 1987), 12957, or 12959 continue in effect in accordance with their terms except to the extent revoked, amended, or modified by the Secretary of the Treasury. General licenses, regulations, orders, and directives issued pursuant to those orders continue in effect in accordance with their terms except to the extent inconsistent with this order or to the extent revoked, amended, or modified by the Secretary of the Treasury.

Sec. 4. For the purposes of this order:

(a) the term "person" means an individual or entity;

(b) the term "entity" means a partnership, association, trust, joint venture, corporation, or other organization;

(c) the term "United States person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States;

(d) the term "Iran" means the territory of Iran and any other territory or marine area, including the exclusive economic zone and continental shelf, over which the Government of Iran claims sovereignty, sovereign rights, or jurisdiction, provided that the Government of Iran exercises partial or total de facto control over the area or derives a benefit from economic activity in the area pursuant to international arrangements;

(e) the term "Government of Iran" includes the Government of Iran, any political subdivision, agency, or instrumentality thereof, and any person owned or controlled by, or acting for or on behalf of, the Government of Iran;

(f) the term "new investment" means:

(i) a commitment or contribution of funds or other assets; or

(ii) a loan or other extension of credit, made after the effective date of Executive Order 12957 as to transactions prohibited by that order, or otherwise made after the effective date of Executive Order 12959.

Sec. 5. The Secretary of the Treasury, in consultation with the Secretary of State and, as appropriate, other agencies, is hereby authorized to take such actions, including the promulgation of rules and regulations, the requirement of reports, including reports by United States persons on oil and related transactions engaged in by their foreign affiliates with Iran or the Government of Iran, and to employ all powers granted to me by IEEPA and the ISDCA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 6. (a) The Secretary of the Treasury may authorize the exportation or reexportation to Iran or the Government of Iran of any goods, technology, or services also subject to export license application requirements of another agency of the United States Government only if authorization by that agency of the exportation or reexportation to Iran would be permitted by law.

(b) Nothing contained in this order shall be construed to supersede the requirements established under any other provision of law or to relieve a person from any requirement to obtain a license or other authorization from another department or agency of the United States Government in compliance with applicable laws and regulations subject to the jurisdiction of that department or agency.

Sec. 7. The provisions of this order consolidate the provisions of Executive Orders 12613, 12957, and 12959. Executive Order 12613 and subsections (a), (b), (c), (d), and (f) of section 1 of Executive Order 12959 are hereby revoked with respect to transactions occurring after the effective date of this order. The revocation of those provisions shall not alter their applicability to any transaction or violation occurring before the effective date of this order, nor shall it affect the applicability of any rule, regulation, order, license, or

other form of administrative action previously taken pursuant to Executive Orders 12613 or 12959.

Sec. 8. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 9. The measures taken pursuant to this order are in response to actions of the Government of Iran occurring after the conclusion of the 1981 Algiers Accords, and are intended solely as a response to those later actions.

Sec. 10. (a) This order is effective at 12:01 a.m. eastern daylight time on August 20, 1997.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

4. Prohibiting Certain Transactions With Respect To Iran

Executive Order 12959, May 8, 1995, 60 F.R. 24757; as amended by Executive Order 13059, August 19, 1997, 62 F.R. 44531

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (Ieepa), the National Emergencies Act (50 U.S.C. 1601 et seq.), section 505 of the International Security and Development Cooperation Act of 1985 (22 U.S.C. 2349aa–9) (Isdca), and section 301 of title 3, United States Code,

I, William J. Clinton, President of the United States of America, in order to take steps with respect to Iran in addition to those set forth in Executive Order No. 12957 of March 15, 1995, to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States referred to in that order, hereby order:

Section 1. The following are prohibited, except to the extent provided in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order:

Subsections (a), (b), (c), (d), and (f) of section 1 were revoked by E.O. 13059 of August 19, 1997.

(e) any new investment by a United States person in Iran or in property (including entities) owned or controlled by the Government of Iran; and,

(g) any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order.

Sec. 2. For the purposes of this order:

(a) the term "person" means an individual or entity;

(b) the term "entity" means a partnership, association, trust, joint venture, corporation, or other organization;

(c) the term "United States person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States;

(d) the term "Iran" means the territory of Iran and any other territory or marine area, including the exclusive economic zone and continental shelf, over which the Government of Iran claims sovereignty, sovereign rights or jurisdiction, provided that the Government of Iran exercises partial or total de facto control over the area or derives a benefit from economic activity in the area pursuant to international arrangements; and

(e) the term "new investment" means (i) a commitment or contribution of funds or other assets, or (ii) a loan or other extension of credit.

Sec. 3. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, the requirement of reports, including reports by United States persons on oil transactions engaged in by their foreign affiliates with Iran or the Government of Iran, and to employ all powers granted to the President by Ieepa and Isdca as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 4. The Secretary of the Treasury may not authorize the exportation or reexportation to Iran, the Government of Iran, or an entity owned or controlled by the Government of Iran of any goods, technology, or services subject to export license application requirements of another agency of the United States Government, if authorization of the exportation or reexportation by that agency would be prohibited by law.

Sec. 5. Sections 1 and 2 of Executive Order No. 12613 of October 29, 1987, and sections 1 and 2 of Executive Order No. 12957 of March 15, 1995, are hereby revoked to the extent inconsistent with this order. Otherwise, the provisions of this order supplement the provisions of Executive Orders No. 12613 and 12957.

Sec. 6. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumen- talities, its officers or employees, or any other person.

Sec. 7. The measures taken pursuant to this order are in response to actions of the Government of Iran occurring after the conclusion of the 1981 Algiers Accords, and are intended solely as a response to those later actions.

Sec. 8. (a) This order is effective at 12:01 a.m., eastern daylight time, on May 7, 1995, except that (i) section 1(b), (c), and (d) of this order shall not apply until 12:01 a.m., eastern daylight time, on June 6, 1995, to trade transactions under contracts in force as of the date of this order if such transactions are authorized pursuant to Federal regulations in force immediately prior to the date of this order ("existing trade contracts"), and (ii) letters of credit and other financing agreements with respect to existing trade contracts may be performed pursuant to their terms with respect to underlying trade transactions occurring prior to 12:01 a.m., eastern daylight time, on June 6, 1995.

(b) This order shall be transmitted to the Congress.

5. Prohibiting Certain Transactions With Respect to the Development of Iranian Petroleum Resources

Executive Order 12957, March 15, 1995, 60 F.R. 14615; as amended by Executive Order 12959, May 6, 1995, 60 F.R. 24757

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3, United States Code,

I, WILLIAM J. CLINTON, President of the United States of America, find that the actions and policies of the Government of Iran constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and hereby declare a national emergency to deal with that threat.

I hereby order:

Sections 1 and 2 were revoked by E.O. 12959 of May 6, 1995, sec. 5.

Sec. 3. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to me by the International Emergency Economic Powers Act as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 4. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 5. (a) This order is effective at 12:01 a.m., eastern standard time, on March 16, 1995.

(b) This order shall be transmitted to the Congress.

6. Prohibiting Transactions With Terrorists Who Threaten to Disrupt the Middle East Peace Process

Executive Order 12947, January 24, 1995, 60 F.R. 7059; as amended by Executive Order 13099, August 20, 1998, 63 F.R. 45167

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (Ieepa), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3, United States Code,

I, William J. Clinton, President of the United States of America, find that grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and hereby declare a national emergency to deal with that threat.

I hereby order:

Section 1. Except to the extent provided in section 203(b)(3) and (4) of Ieepa (50 U.S.C. 1702(b)(3) and (4)) and in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date:

(a) all property and interests in property of:

(i) the persons listed in the Annex to this order;

(ii) foreign persons designated by the Secretary of State, in coordination with the Secretary of the Treasury and the Attorney General, because they are found:

(A) to have committed, or to pose a significant risk of committing, acts of violence that have the purpose or effect of disrupting the Middle East peace process, or

(B) to assist in, sponsor, or provide financial, material, or technological support for, or services in support of, such acts of violence; and

(iii) persons determined by the Secretary of the Treasury, in coordination with the Secretary of State and the Attorney General, to be owned or controlled by, or to act for or on behalf of, any of the foregoing persons, that are in the United States, that hereafter come within the United States, or that hereafter come within the possession or control of United States persons, are blocked;

(b) any transaction or dealing by United States persons or within the United States in property or interests in property of the persons designated in or pursuant to this order is prohibited, including the making or receiving of any contribution of funds, goods, or services to or for the benefit of such persons;

(c) any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading

or avoiding, or attempts to violate, any of the prohibitions set forth in this order, is prohibited.

Sec. 2. For the purposes of this order:

(a) the term "person" means an individual or entity;

(b) the term "entity" means a partnership, association, corporation, or other organization, group, or subgroup;

(c) the term "United States person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States; and

(d) the term "foreign person" means any citizen or national of a foreign state (including any such individual who is also a citizen or national of the United States) or any entity not organized solely under the laws of the United States or existing solely in the United States, but does not include a foreignstate.

Sec. 3. I hereby determine that the making of donations of the type specified in section 203(b)(2)(A) of Ieepa (50 U.S.C. 1702(b)(2)(A)) by United States persons to persons designated in or pursuant to this order would seriously impair my ability to deal with the national emergency declared in this order, and hereby prohibit such donations as provided by section 1 of this order.

Sec. 4. (a) The Secretary of the Treasury, in consultation with the Secretary of State and, as appropriate, the Attorney General, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to me by Ieepa as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

(b) Any investigation emanating from a possible violation of this order, or of any license, order, or regulation issued pursuant to this order, shall first be coordinated with the Federal Bureau of Investigation (Fbi), and any matter involving evidence of a criminal violation shall be referred to the Fbi for further investigation. The Fbi shall timely notify the Department of the Treasury of any action it takes on such referrals.

Sec. 5. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 6. (a) This order is effective at 12:01 a.m., eastern standard time on January 24, 1995.

(b) This order shall be transmitted to the Congress.

ANNEX

TERRORISTS WHO THREATEN TO DISRUPT THE MIDDLE EAST PEACE PROCESS

Abu Hafs al-Masri

Abu Nidal Organization (Ano)

Democratic Front for the Liberation of Palestine (Dflp)

Hizballah

Islamic Army (a.k.a. Al-Qaida, Islamic Salvation Foundation, The Islamic Army for the Liberation of the Holy Places, The World Islamic Front for Jihad Against Jews and Crusaders, and The Group for the Preservation of the Holy Sites)

Islamic Gama'at (Ig)

Islamic Resistance Movement (Hamas)

Jihad

Kach

Kahane Chai

Palestinian Islamic Jihad-Shiqaqi faction (Pij)

Palestine Liberation Front-Abu Abbas faction (Plf-Abu Abbas)

Popular Front for the Liberation of Palestine (Pflp)

Popular Front for the Liberation of Palestine-General Command (Pflp-Gc)

Rifa'i Ahmad Taha Musa

Usama bin Muhammad bin Awad bin Ladin (a.k.a. Usama bin Ladin)

7. Proliferation of Weapons of Mass Destruction

Executive Order 12938, November 14, 1994, 59 F.R. 59099, 50 U.S.C. 1701 note; as amended by Executive Order 13094, July 28, 1998, 63 F.R. 40803; and by Executive Order 13128, June 25, 1999, 64 F.R. 34703

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Arms Export Control Act, as amended (22 U.S.C. 2751 *et seq.*), Executive Orders Nos. 12851 and 12924, and section 301 of title 3, United States Code,

I, WILLIAM J. CLINTON, President of the United States of America, find that the proliferation of nuclear, biological, and chemical weapons ("weapons of mass destruction") and of the means of delivering such weapons, constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and hereby declare a national emergency to deal with that threat.[1]

Accordingly, I hereby order:

Section 1. *International Negotiations.* It is the policy of the United States to lead and seek multilaterally coordinated efforts with other countries to control the proliferation of weapons of mass destruction and the means of delivering such weapons. Accordingly, the Secretary of State shall cooperate in and lead multilateral efforts to stop the proliferation of weapons of mass destruction and their means of delivery.

Sec. 2. *Imposition of Controls.* As provided herein, the Secretary of State and the Secretary of Commerce shall use their respective authorities, including the Arms Export Control Act and the International Emergency Economic Powers Act, to control any exports, to the extent they are not already controlled by the Department of Energy and the Nuclear Regulatory Commission, that either Secretary determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver, or use weapons of mass destruction or their means of delivery. The Secretary of State shall pursue early negotiations with foreign governments to adopt effective measures comparable to those imposed under this order.

Sec. 3. *Department of Commerce Controls.* (a) The Secretary of Commerce shall prohibit the export of any goods, technology, or services subject to the Secretary's export jurisdiction that the Secretary of Commerce determines, in consultation with the Secretary of State, the Secretary of Defense, and other appropriate officials, would assist a foreign country in acquiring the capability to develop, produce, stockpile, deliver, or use weapons of mass destruc-

[1] The President continued this national emergency in notice of November 8, 1995 (60 F.R. 57137); in notice of November 12, 1996 (61 F.R. 58309); in notice of November 12, 1997 (62 F.R. 60993); and in notice of November 12, 1998 (63 F.R. 63589).

tion or their means of delivery. The Secretary of State shall pursue early negotiations with foreign governments to adopt effective measures comparable to those imposed under this section.

(b) Subsection (a) of this section will not apply to exports relating to a particular category of weapons of mass destruction (i.e., nuclear, chemical, or biological weapons) if their destination is a country with whose government the United States has entered into a bilateral or multilateral arrangement for the control of that category of weapons of mass destruction-related goods (including delivery systems) and technology, or maintains domestic export controls comparable to controls that are imposed by the United States with respect to that category of goods and technology, or that are otherwise deemed adequate by the Secretary of State.

(c) The Secretary of Commerce shall require validated licenses to implement this order and shall coordinate any license applications with the Secretary of State and the Secretary of Defense.

(d) The Secretary of Commerce, in consultation with the Secretary of State, shall take such actions, including the promulgation of rules, regulations, and amendments thereto, as may be necessary to continue to regulate the activities of United States persons in order to prevent their participation in activities that could contribute to the proliferation of weapons of mass destruction or their means of delivery, as provided in the Export Administration Regulations, set forth in Title 15, Chapter VII, Subchapter C, of the Code of Federal Regulations, Parts 768 to 799 inclusive.

(e)[2] The Secretary of Commerce shall impose and enforce such restrictions on the importation of chemicals into the United States as may be necessary to carry out the requirements of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction.

Sec. 4.[3] *Measures Against Foreign Persons.*

(a) Determination by Secretary of State; Imposition of Measures. Except to the extent provided in section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)), where applicable, if the Secretary of State determines that a foreign person, on or after November 16, 1990, the effective date of Executive Order 12735, the predecessor order to Executive Order 12938, has materially contributed or attempted to contribute materially to the efforts of any foreign country, project, or entity of proliferation concern to use, acquire, design, develop, produce, or stockpile weapons of mass destruction or missiles capable of delivering such weapons, the measures set forth in subsections (b), (c), and (d) of this section shall be imposed on that foreign person to the extent determined by the Secretary of State in consultation with the implementing agency and other relevant agencies. Nothing in this section is intended to preclude the imposition on that foreign person of other measures or sanctions available under this order or under other authorities.

(b) Procurement Ban. No department or agency of the United States Government may procure, or enter into any contract for the

[2] Subsection (e) was added by Executive Order 13128, June 25, 1999 (64 F.R. 34703).
[3] Section 4 was revised by Executive Order 13094, July 28, 1998 (63 F.R. 40803).

procurement of, any goods, technology, or services from any foreign person described in subsection (a) of this section.

(c) Assistance Ban. No department or agency of the United States Government may provide any assistance to any foreign person described in subsection (a) of this section, and no such foreign person shall be eligible to participate in any assistance program of the United States Government.

(d) Import Ban. The Secretary of the Treasury shall prohibit the importation into the United States of goods, technology, or services produced or provided by any foreign person described in subsection (a) of this section, other than information or informational materials within the meaning of section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

(e) Termination. Measures pursuant to this section may be terminated against a foreign person if the Secretary of State determines that there is reliable evidence that such foreign person has ceased all activities referred to in subsection (a) of this section.

(f) Exceptions. Departments and agencies of the United States Government, acting in consultation with the Secretary of State, may, by license, regulation, order, directive, exception, or otherwise, provide for:

(i) Procurement contracts necessary to meet U.S. operational military requirements or requirements under defense production agreements; intelligence requirements; sole source suppliers, spare parts, components, routine servicing and maintenance of products for the United States Government; and medical and humanitarian items; and

(ii) Performance pursuant to contracts in force on the effective date of this order under appropriate circumstances."

Sec. 5. *Sanctions Against Foreign Countries.* (a) In addition to the sanctions imposed on foreign countries as provided in the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, sanctions also shall be imposed on a foreign country as specified in subsection (b) of this section, if the Secretary of State determines that the foreign country has, on or after the effective date of this order or its predecessor, Executive Order No. 12735 of November 16, 1990, (1) used chemical or biological weapons in violation of international law; (2) made substantial preparations to use chemical or biological weapons in violation of international law; or (3) developed, produced, stockpiled, or otherwise acquired chemical or biological weapons in violation of international law.

(b) The following sanctions shall be imposed on any foreign country identified in subsection (a)(1) of this section unless the Secretary of State determines, on grounds of significant foreign policy or national security, that any individual sanction should not be applied. The sanctions specified in this section may be made applicable to the countries identified in subsections (a)(2) or (a)(3) when the Secretary of State determines that such action will further the objectives of this order pertaining to proliferation. The sanctions specified in subsection (b)(2) below shall be imposed with the concurrence of the Secretary of the Treasury.

(1) *Foreign Assistance.* No assistance shall be provided to that country under the Foreign Assistance Act of 1961, or any

successor act, or the Arms Export Control Act, other than assistance that is intended to benefit the people of that country directly and that is not channeled through governmental agencies or entities of that country.

(2) *Multilateral Development Bank Assistance.* The United States shall oppose any loan or financial or technical assistance to that country by international financial institutions in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d).

(3) *Denial of Credit or Other Financial Assistance.* The United States shall deny to that country any credit or financial assistance by any department, agency, or instrumentality of the United States Government.

(4) *Prohibition of Arms Sales.* The United States Government shall not, under the Arms Export Control Act, sell to that country any defense articles or defense services or issue any license for the export of items on the United States Munitions List.

(5) *Export of National Security-Sensitive Goods and Technology.* No exports shall be permitted of any goods or technologies controlled for national security reasons under the Export Administration Regulations.

(6) *Further Export Restrictions.* The Secretary of Commerce shall prohibit or otherwise substantially restrict exports to that country of goods, technology, and services (excluding agricultural commodities and products otherwise subject to control).

(7) *Import Restrictions.* Restrictions shall be imposed on the importation into the United States of articles (that may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

(8) *Landing Rights.* At the earliest practicable date, the Secretary of State shall terminate, in a manner consistent with international law, the authority of any air carrier that is controlled in fact by the government of that country to engage in air transportation (as defined in section 101(10) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(10)).

Sec. 6. *Duration.* Any sanctions imposed pursuant to sections 4 or 5 of this order shall remain in force until the Secretary of State determines that lifting any sanction is in the foreign policy or national security interests of the United States or, as to sanctions under section 4 of this order, until the Secretary has made the determination under section 4(e).

Sec. 7. *Implementation.* The Secretary of State, the Secretary of the Treasury, and the Secretary of Commerce are hereby authorized and directed to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this order. These actions, and in particular those in sections 4 and 5 of this order, shall be made in consultation with the Secretary of Defense and, as appropriate, other agency heads and shall be implemented in accordance with procedures established pursuant to Executive Order No. 12851. The Secretary concerned may redelegate any of these functions to other officers in agencies of the Federal Government. All heads of departments and agencies of the United States Government are directed to take all appro-

priate measures within their authority to carry out the provisions of this order, including the suspension or termination of licenses or other authorizations.

Sec. 8. *Preservation of Authorities.* Nothing in this order is intended to affect the continued effectiveness of any rules, regulations, orders licenses, or other forms of administrative action issued, taken, or continued in effect heretofore or hereafter under the authority of the International Emergency Economic Powers Act, the Export Administration Act, the Arms Export Control Act, the Nuclear Non-proliferation Act, Executive Order No. 12730 of September 30, 1990, Executive Order No. 12735 of November 16, 1990, Executive Order No. 12924 of August 18, 1994, and Executive Order No. 12930 of September 29, 1994.

Sec. 9. *Judicial Review.* This order is not intended to create, nor does it create, any right or benefit, substantive or procedural, enforceable at law by party against the United States, its agencies, officers, or any other person.

Sec. 10. *Revocation of Executive Orders Nos. 12735 and 12930.* Executive Orders No. 12735 of November 16, 1990, and Executive Order No. 12930 of September 29, 1994, are hereby revoked.

Sec. 11. *Effective Date.* This order is effective immediately.

This order shall be transmitted to the Congress and published in the Federal Register.

8. Continuation of Export Control Regulations

Executive Order 12924,[1] August 19, 1994, 59 F.R. 43437

By the authority vested in me as President by the Constitution and the laws of the United States of America, including but not limited to section 203 of the International Emergency Economic Powers Act ("Act") (50 U.S.C. 1702), I, WILLIAM J. CLINTON, President of the United States of America, find that the unrestricted access of foreign parties to U.S. goods, technology, and technical data and the existence of certain boycott practices of foreign nations, in light of the expiration of the Export Administration Act of 1979, as amended (50 U.S.C. 2401 *et seq.*), constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and hereby declare a national emergency with respect to that threat.

Accordingly, in order (a) to exercise the necessary vigilance over exports and activities affecting the national security of the United States; (b) to further significantly the foreign policy of the United States, including its policy with respect to cooperation by U.S. persons with certain foreign boycott activities, and to fulfill its international responsibilities; and (c) to protect the domestic economy from the excessive drain of scarce materials and reduce the serious economic impact of foreign demand, it is hereby ordered as follows:

Section 1. To the extent permitted by law, the provisions of the Export Administration Act of 1979, as amended, and the provisions for administration of the Export Administration Act of 1979, as amended, shall be carried out under this order so as to continue in full force and effect and amend, as necessary, the export control system heretofore maintained by the Export Administration regulations issued under the Export Administration Act of 1979, as amended. The delegations of authority set forth in Executive Order No. 12002 of July 7, 1977, as amended, by Executive Order No. 12755 of March 12, 1991; Executive Order No. 12214 of May 2, 1980; Executive Order No. 12735 of November 16, 1990; and Executive Order 12851 of June 11, 1993, shall be incorporated in this

[1] The Export Administration Act of 1979 expired on September 30, 1990. To continue export control regulations governed by the Act, the President issued Executive Order 12730 (September 30, 1990; 55 F.R. 40373), which in turn was extended by a Presidential notice on September 26, 1991 (56 F.R. 49385), and further extended on September 25, 1992 (57 F.R. 44649).

Sec. 2 of Public Law 103–10 (107 Stat. 40) renewed the authority of the Act through June 30, 1994, effective March 27, 1993, and authorized funds for fiscal years 1993 and 1994. Executive Order 12730 subsequently was rescinded by sec. 1 of Executive Order 12867 of September 30, 1993 (58 F.R. 51747).

On the day the Act was once again set to expire, June 30, 1994, the President issued Executive Order 12923 (59 F.R. 34551) to continue the provisions of the Act and provisions for its for administration. Subsequently, Public Law 103–277 (108 Stat. 1407; enacted July 5, 1994) renewed the authority of the Export Administration Act through August 20, 1994. Near that expiration, the President issued Executive Order 12924 (August 19, 1994; 59 F.R. 43437) to continue the authorities in the Act.

Executive Order 12924 has been continued beyond August 19, 1995, by a notice of August 15, 1995 (60 F.R. 42767); beyond August 19, 1996, by a notice of August 14, 1996 (61 F.R. 42527); and beyond August 19, 1997, by a notice of August 13, 1997 (62 F.R. 43629).

order and shall apply to the exercise of authorities under this order.

Sec. 2. All rules and regulations issued or continued in effect by the Secretary of Commerce under the authority of the Export Administration Act of 1979, as amended, including those published in Title 15, Subtitle B, Chapter VII, Subchapter C, of the Code of Federal Regulations, Parts 768 to 799, and all orders, regulations, licenses, and other forms of administrative action issued, taken, or continued in effect pursuant thereto, shall, until amended or revoked by the Secretary of Commerce, remain in full force and effect as if issued or taken pursuant to this order, except that the provisions of sections 203(b)(2) and 206 of the Act (50 U.S.C. 1702(b)(2) and 1705) shall control over any inconsistent provisions in the regulations. Nothing in this section shall affect the continued applicability of administrative sanctions provided for by the regulations described above.

Sec. 3. Provisions for administration of section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) may be made and shall continue in full force and effect until amended or revoked under the authority of section 203 of the Act (50 U.S.C. 1702). To the extent permitted by law, this order also shall constitute authority for the issuance and continuation in full force and effect of all rules and regulations by the President or his delegate, and all orders, licenses, and other forms of administrative actions issued, taken, or continued in effect pursuant thereto, relating to the administration of section 38(e).

Sec. 4. Executive Order 12923 of June 30, 1994, is revoked, and that declaration of emergency is rescinded. The revocation of Executive Order No. 12923 shall not affect any violation of any rules, regulations, orders, licenses, and other forms of administrative action under that order that occurred during the order was in effect.

Sec. 5. This order shall be effective as of midnight between August 20, 1994 and August 21, 1994, and shall remain in effect until terminated.

9. Barring Overflight, Takeoff, and Landing of Aircraft Flying To or From Libya

Executive Order 12801, April 15, 1992, 57 F.R. 14319, 50 U.S.C. 1701 note

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Power Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 1114 of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1514), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), and section 301 of title 3 of the United States Code, in view of United Nations Security Council Resolutions No. 731 of January 21, 1992, and 748 of March 31, 1992,[1] and in order to take additional steps with respect to Libya's continued support for international terrorism and the national emergency declared in Executive Order No. 12543 of January 7, 1986, it is hereby ordered that:

Section 1. Except to the extent provided in regulations, orders, directives, authorizations, or licenses that may hereafter be issued pursuant to this order, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted before the effective date of this order, the granting of permission to any aircraft to take off from, land in, or overfly the United States, if the aircraft, as part of the same flight or as a continuation of that flight, is destined to land in or has taken off from the territory of Libya, is hereby prohibited.

Sec. 2. The Secretary of the Treasury, in consultation with the Secretary of Transportation, is hereby authorized to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the provisions of section 1 of this order. The Secretary of the Treasury may redelegate the authority set forth in this order to other officers in the Department of the Treasury and may confer or impose such authority upon any other officer of the United States, with the consent of the head of the department or agency within which such officer is serving. All executive branch agencies of the Federal Government hereby affected are directed to consult as appropriate on the implementation of this order and to take all necessary measures within their authority to carry out the provisions of this order, including the suspension or

[1] United Nations Security Council Resolution No. 731 of January 21, 1992, in part, reaffirmed earlier resolutions calling for international aviation security, condemned the downing of Pan Am flight 103 and UTA flight 772, and called on the Government of Libya to provide full and effective responses toward the elimination of international terrorism. United Nations Security Council Resolution No. 748 of March 31, 1992, in part, reaffirmed Resolution 731, expressed conviction in the role of involved States and the international community in the suppression of international terrorism. Resolution 731, furthermore, called on the international community to impose economic and diplomatic sanctions against Libya on April 15, 1992, if Libya failed to provide documentation relating to the downing of Pan Am flight 103 and UTA flight 772, and further failed to commit itself to the cessation of international terrorism.

termination of licenses or other authorizations in effect as of the date of this order.

Sec. 3. Nothing contained in this order shall confer any substantive or procedural right or privilege on any person or organization, enforceable against the United States, its agencies or instrumentalities, its officers, or its employees.

Sec. 4. This order is effective 11:59 p.m. eastern daylight time, April 15, 1992.

Sec. 5. This order shall be transmitted to the Congress and published in the Federal Register.

10. Victims of Terrorism Compensation

Executive Order 12598, June 17, 1987, 52 F.R. 23421

By the authority vested in me as President by the Constitution and laws of the United States of America, including Title VIII of the Omnibus Diplomatic Security and Antiterrorism, Act of 1986 (Public Law 99–399, 100 Stat. 853) ("the Act"), and in order to provide for the implementation of that Act, it is hereby ordered as follows:

Section 1. The functions vested in the President by that part of section 803(a) of the Act to be codified at 5 U.S.C. 5569 are delegated to the Secretary of State.

Sec. 2. The functions vested in the President by that part of section 803(a) of the Act to be codified at 5 U.S.C. 5570 are delegated to the Secretary of State, to be exercised in consultation with the Secretary of Labor.

Sec. 3. The functions vested in the President by section 805(a) (to be codified at 37 U.S.C. 559), section 806(c) (to be codified at 10 U.S.C. 1095), and section 806(d) (to be codified at 10 U.S.C. 2181-2185) are delegated to the Secretary of Defense.

Sec. 4. The functions vested in the President by section 806(b) (to be codified at 10 U.S.C. 1051), are delegated to the Secretary of Defense, to be exercised in consultation with the Secretary of Labor.

Sec. 5. The Secretaries of State and Defense shall consult with each other and with the heads of other appropriated Executive departments and agencies in carrying out their functions under this Order.

Sec. 6. Executive Order No. 12576 of December 2, 1986, is hereby superseded.

11. Blocking Libyan Government Property in the United States or Held by U.S. Persons

Executive Order 12544, January 8, 1986, 51 F.R. 1235, 50 U.S.C. 1701 note

By the authority vested in me as President by the Constitution and laws of the United States, including the International Emergency Economic Power Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) and section 301 of title 3 of the United States Code, in order to take steps with respect to Libya additional to those set forth in Executive Order No. 12543 of January 7, 1986, to deal with the threat to the national security and foreign policy of the United States referred to in that Order.[1]

I, RONALD REAGAN, President of the United States, hereby order blocked all property and interests in property of the Government of Libya, its agencies, instrumentalities and controlled entities and the Central Bank of Libya that are in the United States, that hereafter come within the United States or that are or hereafter come within the possession or control of U.S. persons, including overseas branches of U.S. persons.

The Secretary of the Treasury, in consultation with the Secretary of State, is authorized to employ all powers granted to me by the International Emergency Economics Power Act, 50 U.S.C. 1701 *et seq.*, to carry out the provisions of this Order.

This Order is effective immediately and shall be transmitted to the Congress and published in the Federal Register.

[1] Since 1986, the President has continued this national emergency. The most recent continuation of the national emergency with respect to Libya was declared in notice of December 30, 1998 (64 F.R. 383). Previous continuations were declared in notices dated December 23, 1986 (51 F.R. 46849); December 15, 1987 (52 F.R. 47891); December 28, 1988 (53 F.R. 52971); January 4, 1990 (55 F.R. 589); January 2, 1991 (56 F.R. 447); December 26, 1991 (56 F.R. 67465); December 14, 1992 (57 F.R. 59895); December 2, 1993 (58 F.R. 64361); December 22, 1994 (59 F.R. 67119); January 3, 1996 (61 F.R. 383); January 2, 1997 (62 F.R. 587); and January 2, 1998 (63 F.R. 653).

12. Prohibiting Trade and Certain Transactions Involving Libya

Executive Order 12543, January 7, 1986, 51 F.R. 875, 50 U.S.C. 1701 note

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), sections 504 and 505 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83), section 1114 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1514), and section 301 of title 3 of the United States Code.

I, RONALD REAGAN, President of the United States of America, find that the policies and actions of the Government of Libya constitute an unusual and extraordinary threat to the national security and foreign policy of the United States and hereby declare a national emergency to deal with that threat.[1]

I hereby order:

Section 1. The following are prohibited, except to the extent provided in regulations which may hereafter be issued pursuant to this Order:

(a) The import into the United States of any goods or services of Libyan origin, other than publications and materials imported for news publications or news broadcast dissemination;

(b) The export to Libya of any goods, technology (including technical data or other information) or services from the United States, except publications and donations of articles intended to relieve human suffering, such as food, clothing, medicine and medical supplies intended strictly for medical purposes;

(c) Any transaction by a United States person relating to transportation to or from Libya; the provision of transportation to or from the United States by any Libyan person or any vessel or aircraft of Libyan registration; or the sale in the United States by any person holding authority under the Federal Aviation Act of any transportation by air which includes any stop in Libya;

(d) The purchase by any United States person of goods for export from Libya to any country;

(e) The performance by any United States person of any contract in support of an industrial or other commercial or governmental project in Libya;

[1] Since 1986, the President has continued this national emergency. The most recent continuation of the national emergency with respect to Libya was declared in notice of December 30, 1998 (64 F.R. 383). Previous continuations were declared in notice of December 23, 1986 (51 F.R. 46849); by the notice dated December 15, 1987 (52 F.R. 47891); by notice of December 28, 1988 (53 F.R. 52971); by notice of Jan. 4, 1990 (55 F.R. 589); by notice of January 2, 1991 (56 F.R. 447); by notice of December 26, 1991 (56 F.R. 67465); by notice of December 14, 1992 (57 F.R. 59895); by notice of December 2, 1993 (58 F.R. 64361); by notice of December 22, 1994 (59 F.R. 67119); by notice of January 3, 1996 (61 F.R. 383); by notice of January 2, 1997 (62 F.R. 587); and by notice of January 2, 1998 (63 F.R. 653).

(f) The grant or extension of credits or loans by any United States person to the Government of Libya, its instrumentalities and controlled entities;

(g) Any transaction by a United States person relating to travel by any United States citizen or permanent resident alien to Libya, or to activities by any such person within Libya, after the date of this Order, other than transactions necessary to effect such person's departure from Libya, to perform acts permitted until February 1, 1986, by Section 3 of this Order, or travel for journalistic activity by persons regularly employed in such capacity by a newsgathering organization; and

(h) Any transaction by any United States person which evades or avoids, or has the purpose of evading or avoiding, any of the prohibitions set forth in this Order.

For purposes of this Order, the term "United States person" means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States or any person in the United States.

Sec. 2. In light of the prohibition in Section 1(a) of this Order, section 251 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1881), and section 126 of the Trade Act of 1974, as amended (19 U.S.C. 2136) will have no effect with respect of Libya.

Sec. 3. This Order is effective immediately, except that the prohibitions set forth in Section 1 (a), (b), (c), (d) and (e) shall apply as of 12:01 a.m. Eastern Standard Time, February 1, 1986.

Sec. 4. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this Order. Such actions may include prohibiting or regulating payments or transfers of any property or any transactions involving the transfer of anything of economic value by any United States person to the Government of Libya, its instrumentalities and controlled entities, or to any Libyan national or entity owned or controlled, directly or indirectly, by Libya or Libyan nationals. The Secretary may redelegate any of these functions to other officers and agencies of the Federal government. All agencies of the United States government are directed to take all appropriate measures within their authority to carry out the provisions of this Order, including the suspension or termination of licenses or other authorizations in effect as of the date of this Order.

Sec. 5. This Order shall be transmitted to the Congress and published in the Federal Register.

13. Imports of Refined Petroleum Products From Libya

Executive Order 12538, November 15, 1985, 50 F.R. 47527, 19 U.S.C. 1862 note

By the authority vested in me as President by the Constitution and laws of the United States, including Section 504 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83), and considering that the Libyan government actively pursues terrorism as an instrument of state policy and that Libya has developed significant capability to export petroleum products and thereby circumvent the prohibition imposed by Proclamation No. 4907 of March 10, 1982 and retained in Proclamation No. 5141 of December 22, 1983 on the importation of Libyan crude oil, it is ordered as follows:

Section 1. (a) No petroleum product refined in Libya (except petroleum product loaded aboard maritime vessels at any time prior to two days after the effective date of this Executive Order) may be imported into the United States, its territories or possessions.

(b) For the purposes of this Executive Order, the prohibition on importation of petroleum products refined in Libya shall apply to petroleum products which are currently classifiable under Item Numbers: 475.05; 475.10; 475.15; 475.25; 475.30; 475.35; 475.45; 475.65; 475.70 of the Tariff Schedules of the United States (19 U.S.C. 1202).

Sec. 2. The Secretary of the Treasury may issue such rulings and instructions, or, following consultation with the Secretaries of State and Energy, such regulations as he deems necessary to implement this Order.

Sec. 3. This Order shall be effective immediately.

14. Revocation of Prohibitions Against Transactions Involving Iran

Executive Order 12282, January 19, 1981, 46 F.R. 7925

By the authority vested in me as President by the Constitution and statutes of the United States, including Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701), Section 301 of Title 3 of the United States Code, Section 1732 of Title 22 of the United States Code, and Section 301 of the National Emergencies Act (50 U.S.C. 1631), in view of the continuing unusual and extraordinary threat to the national security, foreign policy and economy of the United States upon which I based my declarations of national emergency in Executive Order 12170, issued November 14, 1979, and in Executive Order 12211, issued April 17, 1980, in order to implement agreements with the Government of Iran, as reflected in Declarations of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981, relating to the release of U.S. diplomats and nationals being held as hostage and to the resolution of claims of United States nationals against Iran, and to begin the process of normalization of relations between the United States and Iran, it is hereby ordered that as of the effective date of this Order.

1–101. The prohibitions contained in Executive Order 12205 of April 7, 1980, and Executive Order 12211 of April 17, 1980, and Proclamation 4702 of November 12, 1979, are hereby revoked.

1–102. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to carry out the purpose of this Order.

1–103. This Order shall be effective immediately.

15. Hostage Relief Act of 1980—Delegation of Authority

Executive Order 12268, January 15, 1981, 46 F.R. 4671, 5 U.S.C. 5561 note

By the authority vested in me as President by the Constitution and statutes of the United States of America, including the Hostage Relief Act of 1980 (Public Law 96–449, 94 Stat. 1967, 5 U.S.C. 5561 note) and Section 301 of Title 3 of the United States Code, and in order to provide for the implementation of that Act, it is hereby ordered as follows:

1–101. The functions vested in the President by Sections 103, 104, 105 and 301 of the Hostage Relief Act of 1980 (5 U.S.C. 5561 note) are delegated to the Secretary of State.

1–102. The Secretary of State shall consult with the heads of appropriate Executive agencies in carrying out the functions in Sections 103, 104, and 105 of the Act.

16. Administration of the Export Administration Act of 1969, as amended [1]

Executive Order 12002, July 7, 1977, 42 F.R. 35623; as amended by Executive Order 12755, March 12, 1991, 56 F.R. 11057

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Export Administration Act of 1969, as amended (50 U.S.C. App. 2401, et seq.), and as President of the United States of America, it is hereby ordered as follows:

Section 1. Except as provided in Section 2, the power, authority, and discretion conferred upon the President by the provisions of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401, et seq.) hereinafter referred to as the Act, are delegated to the Secretary of Commerce, with the power of successive redelegation.

Sec. 2. (a) The power, authority and discretion conferred upon the President in Sections 4(h) and 4(l) of the Act are retained by the President.

(b) The power, authority and discretion conferred upon the President in Section 3(8) of the Act, which directs that every reasonable effort be made to secure the removal of reduction of assistance by foreign countries to international terrorists through cooperation and agreement, are delegated to the Secretary of State, with the power of successive redelegation.

Sec. 3.[2] The Export Administration Review Board, hereinafter referred to as the Board, which was established by Executive Order No. 11533 of June 4, 1970, as amended, is hereby continued. The Board shall continue to have as its members, the Secretary of Commerce, who shall be Chairman of the Board, the Secretary of State, and the Secretary of Defense. The Secretary of Energy and the Di-

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[1] When the Export Administration Act of 1969 expired on Sept. 30, 1979, it was replaced by the Export Administration Act of 1979. Sec. 21 of the 1979 Act provided that all orders (which would include this executive order) issued under the 1969 Act and which were in force on the effective date of the 1979 Act, would continue in effect until modified, superseded, set aside, or revoked. Executive Order 12214 was issued on May 2, 1980, providing for the administration of the Export Administration Act of 1979. However, the new Executive Order stated that it did not supersede or otherwise affect Executive Order 12002.

Authority of the Export Administration Act of 1979 expired on September 30, 1990, pursuant to sec. 20 of that Act. Executive Order 12730 of September 30, 1990, provided for the continuation of export control regulations until passage of an extension of the 1979 Act. Public Law 103–10 (107 Stat. 40; March 27, 1993) renewed the authority of the Act through June 30, 1994, effective March 27, 1993, and authorized funds for fiscal years 1993 and 1994. Executive Order 12730 subsequently was rescinded by sec. 1 of Executive Order 12867 of September 30, 1993 (58 F.R. 51747).

On the day the Act was once again set to expire, June 30, 1994, the President issued Executive Order 12923 (59 F.R. 34551) to continue the provisions of the Act and provisions for its for administration. Subsequently, Public Law 103–277 (108 Stat. 1407; enacted July 5, 1994) renewed the authority of the Export Administration Act through August 20, 1994. Near that expiration, the President issued Executive Order 12924 (August 19, 1994; 59 F.R. 43437) to continue the authorities in the Act.

[2] Sec. 1 of Executive Order 12755 of March 12, 1991 (56 F.R. 11057) amended and restated sec. 3.

rector of the United States Arms Control and Disarmament Agency shall be members of the Board, and shall participate in meetings that consider issues involving nonproliferation of armaments and other issues within their respective statutory and policy-making authorities. The Chairman of the Joint Chiefs of Staff and the Director of Central Intelligence shall be non-voting members of the Board. No alternate Board members shall be designated, but the acting head or deputy head of any department or agency may serve in lieu of the head of the concerned department or agency. The Board may invite the heads of other United States Government departments or agencies, other than the agencies represented by Board members, to participate in the activities of the Board when matters of interest to such departments or agencies are under consideration.

Sec. 4. The Secretary of Commerce may from time to time refer to the Board such particular export license matters, involving questions of national security or other major policy issues, as the Secretary shall select. The Secretary of Commerce shall also refer to the Board any other such export license matter, upon the request of any other member of the Board or of the head of any other United States Government department or agency having any interest in such matter. The Board shall consider the matters so referred to it, giving due consideration to the foreign policy of the United States, the national security, concerns about the nonproliferation of armaments,[3] and the domestic economy, and shall make recommendation thereon to the Secretary of Commerce.

Sec. 5. The President may at any time (a) prescribe rules and regulations applicable to the power, authority, and discretion referred to in this Order, and (b) communicate to the Secretary of Commerce such specific directives applicable thereto as the President shall determine. The Secretary of Commerce shall from time to time report to the President upon the administration of the Act and, as the Secretary deems necessary, may refer to the President recommendations made by the Board under Section 4 of this Order. Neither the provisions of this section nor those of Section 4 shall be construed as limiting the provisions of Section 1 of this Order.

Sec. 6. All delegations, rules, regulations, orders, licenses, and other forms of administrative action made, issued, or otherwise taken under, or continued in existence by, the Executive orders revoked in Section 7 of this Order, and not revoked administratively or legislatively, shall remain in full force and effect under this Order until amended, or terminated by proper authority. The revocations in Section 7 of this Order shall not affect any violation of any rules, regulations, orders, licenses or other forms of administrative action under those Orders during the period those Orders were in effect.

Sec. 7. Executive Order No. 11533 of June 4, 1970, Executive Order No. 11683 of August 29, 1972, Executive Order No. 11798 of August 14, 1974, Executive Order No. 11818 of November 5, 1974, Executive Order No. 11907 of March 1, 1976, and Executive Order No. 11940 of September 30, 1976, are hereby revoked.

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[3] Sec. 2 of Executive Order 12755 of March 12, 1991 (56 F.R. 11057) added "concerns about the nonproliferation of armaments,".

I. EXECUTIVE DEPARTMENT REGULATIONS

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1. Department of State

a. Protection of Foreign Dignitaries and Other Official Personnel

Department of State Regulations, 22 CFR Part 2

SUBCHAPTER A—GENERAL

PART 2—PROTECTION OF FOREIGN DIGNITARIES AND OTHER OFFICIAL PERSONNEL

§ 2.1 Designation of personnel to carry firearms and exercise appropriate power of arrest.

(a) The Deputy Assistant Secretary of State for Security is authorized to designate certain employees of the Department of State and the Foreign Service, as well as employees of other departments and agencies detailed to and under the supervision and control of the Department of State, as Security Officers, as follows.

(1) Persons so designated shall be authorized to carry firearms when engaged in the performance of the duties prescribed in section (1) of the act of June 28, 1955, 69 Stat. 188, as amended. No person shall be so designated unless he has either qualified in the use of firearms in accordance with standards established by the Deputy Assistant Secretary of State for Security, or in accordance with standards established by the department or agency from which he is detailed.

(2) Persons so designated shall also be authorized, when engaged in the performance of duties prescribed in section (1) of the act of June 28, 1955, 69 Stat. 188, as amended, to arrest without warrant and deliver into custody any person violating the provisions of section 111 or 112 of Title 18, United States Code, in their presence or if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

(b) When the Under Secretary of State for Management determines that it is necessary, persons designated under paragraph (a) of this section shall be authorized to provide protection to an individual who has been designated by the President to serve as Secretary of State, prior to his appointment, or to a departing Secretary of State. In providing such protection, they are authorized to exercise the authorities described in paragraphs (a) (1) and (2) of this section. Such protection shall be for the period or periods determined necessary by the Under Secretary of State for Management, except that in the case of a departing Secretary of State, the period of protection under this paragraph shall in no event exceed 30 calendar days from the date of termination of that individual's incumbency as Secretary of State.

(c) When the Under Secretary of State for Management determines that it is necessary, persons designated under paragraph (a)

of this section shall be authorized to provide protection to a departing United States Representative to the United Nations. In providing such protection, they are authorized to exercise the authorities described in paragraphs (a) (1) and (2) of this section. Such protection shall be for the period or periods determined necessary by the Under Secretary of State for Management, except that the period of protection under this paragraph shall in no event exceed 30 calendar days from the date of termination of that individual's incumbency as United States Representative to the United Nations.

§ 2.2 Purpose.

Section 1116(b)(2) of Title 18 of the United States Code, as added by Pub. L. 92–539, An Act for the Protection of Foreign Officials and Official Guests of the United States (86 Stat. 1071), defines the term "foreign official" for purposes of that Act as "any person of a foreign nationality who is duly notified to the United States as an officer or employee of a foreign government or international organization, and who is in the United States on official business, and any member of his family whose presence in the United States is in connection with the presence of such officer or employee." Section 1116(c)(4) of the same Act defines the term "official guest" for the purposes of that Act as "a citizen or national of a foreign country present in the United States as an official guest of the Government of the United States pursuant to designation as such by the Secretary of State." It is the purpose of this regulation to specify the officer of the Department of State who shall be responsible for receiving notification of foreign officials under the Act and determining whether persons are "duly notified" to the United States and who shall be responsible for processing official guest designations by the Secretary of State.

§ 2.3 Notification of foreign officials.

(a) Any notification of a foreign official for purposes of section 1116(b)(2) of Title 18 of the United States Code shall be directed by the foreign government or international organization concerned to the Chief of Protocol, Department of State, Washington, D.C. 20520. For persons normally accredited to the United States in diplomatic or consular capacities and also for persons normally accredited to the United Nations and other international organizations and in turn notified to the Department of State, the procedure for placing a person in the statutory category of being "duly notified to the United States" shall be the current procedure for accreditation, with notification in turn when applicable. The Chief of the Office of Protocol will place on the roster of persons "duly notified to the United States" the names of all persons currently accredited and, when applicable, notified in turn, and will maintain the roster as part of the official files of the Department of State adding to and deleting therefrom as changes in accreditations occur.

(b) For those persons not normally accredited, the Chief of Protocol shall determine upon receipt of notification, by letter from the foreign government or international organization concerned, whether any person who is the subject of such a notification has been duly notified under the Act. Any inquiries by law enforcement offi-

cers or other persons as to whether a person has been duly notified shall be directed to the Chief of Protocol. The determination of the Chief of Protocol that a person has been duly notified is final.

§ 2.4 Designation of official guests.

The Chief of Protocol shall also maintain a roster of persons designated by the Secretary of State as official guests. Any inquiries by law enforcement officers or other persons as to whether a person has been so designated shall be directed to the Chief of Protocol. The designation of a person as an official guest is final. Pursuant to section 2658 of Title 22 of the U.S.C., the authority of the Secretary of State to perform the function of designation of official guests is hereby delegated to the Chief of Protocol.

§ 2.5 Records.

The Chief of Protocol shall maintain as a part of the official files of the Department of State a cumulative roster of all persons who have been duly notified as foreign officials or designated as official guests under this part. The roster will reflect the name, position, nationality, and foreign government or international organization concerned or purpose of visit as an official guest and reflect the date the person was accorded recognition as being "duly notified to the United States" or designated as an official guest and the date, if any, of termination of such status.

b. Hostage Relief Assistance

Department of State Regulations, 22 CFR Part 191

SUBCHAPTER T—HOSTAGE RELIEF

PART 191—HOSTAGE RELIEF ASSISTANCE

SUBPART A—GENERAL

§ 191.1 Declaration of hostile action.

(a) The Secretary of State from time to time shall declare when and where individuals in the civil or uniformed services of the United States, or a citizen or resident alien of the United States rendering personal services to the United States abroad similar to the service of a civil officer or employee of the United States, have been placed in captive status because of hostile action abroad directed against the United States and occurring or continuing between November 4, 1979, and such date as may be declared by the President under section 101(2)(A) of the Hostage Relief Act of 1980 (Pub. L. 96–449, hereafter "the Act") or January 1, 1983, whichever is later. Each such declaration shall be published in the FEDERAL REGISTER

(b) The Secretary of State upon his or her own initiative, or upon application under § 191.2 shall determine which individuals in captive status as so declared shall be considered hostages eligible for benefits under the Act. The Secretary shall also determine who is eligible under the Act for benefits as a member of a family or household of a hostage. The determination of the Secretary shall be final, but any interested person may request reconsideration on the basis of information not considered at the time of original determination. The criteria for determination are set forth in sections 101 and 205 of the Act, and in these regulations.

§ 191.2 Application for determination of eligibility.

(a) Any person who believes that they or other persons known to them are either hostages as defined in the Act, or members of the family or household of hostages as defined in § 191.3(a)(1), or a child eligible for benefits under subpart D, may apply for benefits under this subchapter for themselves, or on behalf of others entitled thereto.

(b) The application shall be in writing, should contain all identifying and other pertinent data available to the person applying about the person or persons claimed to be eligible, and should be addressed to the Assistant Secretary of State for Administration, Department of State, Washington, D.C. 20520. Applications may be filed at any time after publication of a declaration under § 191.1(a) in the FEDERAL REGISTER, and during the period of its validity, or within 60 days after release from captivity. Later filing may be con-

sidered when in the opinion of the Secretary of State there is good cause for the late filing.

§ 191.3 Definitions.

When used in this subchapter, unless otherwise specified, the terms—

(a) Family Member means (1) a spouse, (2) an unmarried dependent child including a step-child or adopted child, (3) a person designated in official records or determined by the agency head or designee thereof to be a dependent, or (4) other persons such as parents, parents-in-law, persons who stand in the place of a spouse or parents, or other members of a household when fully justified by the circumstances of the hostage situation, as determined by the Secretary of State.

(b) Agency head means the head of an agency as defined in the Act (or successor agency) employing an individual determined to be an American hostage. The Secretary of State is the agency head with respect to any hostage not employed by an agency.

(c) Principal means the hostage whose captivity forms the basis for benefits under this subchapter for a family member.

§ 191.4 Notification of eligible persons.

The Assistant Secretary of State for Administration shall be responsible for notifying each individual determined to be eligible for benefits under the Act or, if that person is not available, a representative or Family Member of the hostage.

§ 191.5 Relationships among agencies.

(a) The Assistant Secretary of State for Administration shall promptly inform the head of any agency whenever an employee (including a member of the Armed Forces) in that agency, or Family Member of such employee, is determined to be eligible for benefits under this subchapter.

(b) In accordance with inter-agency agreements between the Department of State and relevant agencies—

(1) The Veterans Administration will periodically bill the Department of State for expenses it pays for each eligible person under subpart D of this subchapter plus the administrative costs of carrying out its responsibilities under this part.

(2) The Department of State will, on a periodic basis, determine the cost for services and benefits it provides to all eligible persons under this subchapter and bill each agency for the costs attributable to Principals (and Family Members) in or acting on behalf of the agency plus a proportionate share of related administrative expenses.

§ 191.6 Effective date.

This regulation is effective as of November 4, 1979. Reimbursement may be made for expenses approved under this subchapter for services rendered on or after such date.

SUBPART B—APPLICATION OF SOLDIERS' AND SAILOR'S CIVIL RELIEF ACT

§ 191.10 Eligibility for benefits.

A person designated as a hostage under subpart A of this subchapter, other than a member of the Armed Forces covered by the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940, shall be eligible for benefits under this part.

§ 191.11 Applicable benefits.

(a) Eligible persons are entitled to the benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501, *et seq.*), including the benefits provided by section 701 (50 U.S.C. App. 591) notwithstanding paragraph (c) thereof, but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 (50 U.S.C. App. 514, 515, 516, 540 through 548, 561 through 572, and 574).

(b) In applying such Act for purposes of this section—

(1) The term "person in the military service" is deemed to include any such American hostage;

(2) The term "period of military service" is deemed to include the period during which such American hostage is in a captive status;

(3) References therein to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, or other officials of government are deemed to be references to the Secretary of State; and

(4) The term "dependents" shall, to the extent permissible by law, be construed to include "Family Members" as defined in section 101 of the Hostage Relief Act.

§ 191.12 Description of benefits.

The following material is included to assist persons affected, by providing a brief description of some of the provisions of the Civil Relief Act. Note that not all of the sections applicable to hostages have been included here. References to sections herein are references to the Civil Relief Act of 1940, as amended, followed by references in parentheses to the same section in the United States Code.

(a) *Guarantors, endorsers.* Section 103 (50 U.S.C. App. 513) provides that whenever a hostage is granted relief from the enforcement of an obligation, a court, in its discretion, may grant the same relief to guarantors and endorsers of the obligation. Amendments extend relief to accommodation makers and others primarily or secondarily liable on an obligation, and to sureties on a criminal bail bond. They provide, on certain conditions, that the benefits of the section with reference to persons primarily or secondarily liable on an obligation may be waived in writing.

(b) *Written Agreements.* Section 107 (50 U.S.C. App. 517) provides that nothing contained in the Act shall prevent hostages from making certain arrangements with respect to their contracts and obligations, but requires that such arrangements be in writing.

(c) *Protection in Court.* Section 200 (50 U.S.C. App. 520) provides that if a hostage is made defendant in a court action and is unable

to appear in court, the court shall appoint an attorney to represent the hostage and protect the hostage's interests. Further, if a judgment is rendered against the hostage, an opportunity to reopen the case and present a defense, if meritorious, may be permitted within 90 days after release.

(d) *Court Postponement*. Section 201 (50 U.S.C. App. 521) authorizes a court to postpone any court proceedings if a hostage is a party thereto and is unable to participate by reason of being a captive.

(e) *Relief Against Penalties.* Section 202 (50 U.S.C. App. 522) provides for relief against fines or penalties when a court proceeding involving a hostage is postponed, or when the fine or penalties are incurred for failure to perform any obligation. In the latter case, relief depends upon whether the hostage's ability to pay or perform is materially affected by being held captive.

(f) *Postponement of Action*. Section 203 (50 U.S.C. App. 523) authorizes a court to postpone or vacate the execution of any judgment, attachment or garnishment.

(g) *Period of Postponement*. Section 204 (50 U.S.C. App. 524) authorizes a court to postpone proceedings for the period of captivity, and for 3 months thereafter, or any part thereof.

(h) *Extended Time Limits.* Section 205 (50 U.S.C. App. 525) excludes the period of captivity from computing time under existing or future statutes of limitation. Amendments extend relief to include actions before administrative agencies, and provide that the period of captivity shall not be included in the period for redemption of real property sold to enforce any obligation, tax, or assessment. Section 207 excludes application of section 205 to any period of limitation prescribed by or under the internal revenue laws of the United States.

(i) *Interest Rates.* Section 206 (50 U.S.C. App. 526) provides that interest on the obligations of hostages shall not exceed a specified per centum per annum, unless the court determines that ability to pay greater interest is not affected by being held captive.

(j) *Misuse of Benefits.* Section 600 (50 U.S.C. App. 580) provides against transfers made with intent to delay the just enforcement of a civil right by taking advantage of the Act.

(k) *Further Relief.* Section 700 (50 U.S.C. App. 590) provides that a person, during a period of captivity or 6 months thereafter, may apply to a court for relief with respect to obligations incurred prior to captivity, or any tax or assessment whether falling due prior to or during the period of captivity. The court may, on certain conditions, stay the enforcement of such obligations.

(l) *Stay of Eviction.* Section 300 (50 U.S.C. App. 530) provides that a hostage's dependents shall not be evicted from their dwelling if the rental is $ 150 or less per month, except upon leave of a court. If it is proved that inability to pay rent is a result of being in captivity, the court is authorized to stay eviction proceedings for not longer than 3 months. An amendment extends relief to owners of the premises with respect to payments on mortgage and taxes.

(m) *Contract and Mortgage Obligations.* As provided by sections 301 and 302 of the Act (50 U.S.C. App. 531 and 532), as amended, contracts for the purchase of real and personal property, which originated prior to the period of captivity, may not be rescinded,

terminated, or foreclosed, or the property repossessed, except as provided in section 107 (50 U.S.C. App. 517), unless by an order of a court. The mentioned sections give the court wide discretionary powers to make such disposition of the particular case as may be equitable in order to conserve the interests of both the hostage and the creditor. The cited sections further provide that the court may stay the proceedings for the period of captivity and 3 months thereafter, if in its opinion the ability of the hostage to perform the obligation is materially affected by reason of captivity. Section 303 (50 U.S.C. App. 533) provides that the court may appoint appraisers and, based upon their report, order such sum as may be just, if any, paid to hostages or their dependents, as a condition to foreclosing a mortgage, resuming possession of property, and rescinding or terminating a contract.

(n) *Termination of a Lease.* Section 304 (50 U.S.C. App. 534) provides, in general, that a lease covering premises occupied for dwelling, business, or agricultural purpose, executed by persons who subsequently become hostages, may be terminated by a notice in writing given to the lessor, subject to such action as may be taken by a court on application of the lessor. Termination of a lease providing for monthly payment of rent shall not be effective until 30 days after the first date on which the next rental payment is due, and, in the case of other leases, on the last day of the month following the month when the notice is served.

(o) *Assignment of Life Insurance Policy.* Section 305 (50 U.S.C. App. 535) provides that the assignee of a life insurance policy assigned as security, other than the insurer in connection with a policy loan, except upon certain conditions, shall not exercise any right with respect to the assignment during the period of captivity of the insured and one year thereafter, unless upon order of a court.

(p) *Storage Lien.* Section 305 (50 U.S.C. App. 535) provides that a lien for storage of personal property may not be foreclosed except upon court order. The court may stay proceedings or make other just disposition.

(q) *Extension of Benefits to Dependents.* Section 306 (50 U.S.C. App. 536) extends the benefits to section 300 through 305 to dependents of a hostage.

(r) *Real and Personal Property Taxes.* Section 500 (50 U.S.C. App. 560) forbids sale of property, except upon court leave, to enforce collection of taxes or assessments (other than taxes on income) on personal property or real property owned and occupied by the hostage or dependents thereof at the commencement of captivity and still occupied by the hostage's dependents or employees. The court may stay proceedings for a period not more than 6 months after termination of captivity. When by law such property may be sold to enforce collection, the hostage will have the right to redeem it within 6 months after termination of captivity. Unpaid taxes or assessments bear interest at 6 percent.

(s) *Income Taxes*. Section 513 provides for deferment of payment of income taxes. However, section 204 of the Hostage Relief Act of 1980 provides for deferment and certain other relief, and should be referred to in order to determine statutory tax benefits in addition to those in section 513 of the Civil Relief Act.

(t) *Certification of Hostage.* Section 601 provides that a certificate signed by the agency head shall be prima facie evidence that the person named has been a hostage during the period specified in the certification.

(u) *Interlocutory Orders.* Section 602 (50 U.S.C. App. 582) provides that a court may revoke an interlocutory order it has issued pursuant to any provision of the Soldiers' and Sailors' Civil Relief Act of 1940.

(v) *Power of Attorney*. Section 701 (50 U.S.C. App. 591) provides that certain powers of attorney executed by a hostage which expire by their terms after the person was captured shall be automatically extended for the period of captivity. Exceptions are made with respect to powers of attorney which by their terms clearly indicate they are to expire on the date specified irrespective of hostage status. (Section 701 applies to American hostages notwithstanding paragraph (c) thereof which states that it applies only to powers of attorney issued during the "Vietnam era".)

§ 191.13 Administration of benefits.

(a) The Assistant Secretary of State for Administration will issue certifications or other documents when required for purposes of the Civil Relief Act.

(b) The Assistant Secretary of State shall whenever possible promptly inform the chief legal officer of each State in which hostages maintain residence of all persons determined to be hostages eligible for assistance under this subpart.

SUBPART C—MEDICAL BENEFITS

§ 191.20 Eligibility for benefits.

A person designated as a hostage or Family Member of a hostage under subpart A of this subchapter shall be eligible for benefits under this subpart.

§ 191.21 Applicable benefits.

A person eligible for benefits under this part shall be eligible for authorized medical and health care at U.S. Government expense, and for payment of other authorized expenses related to such care or for obtaining such care for any illness or injury which is determined by the Secretary of State to be caused or materially aggravated by the hostage situation, to the extent that such care may not—

(a) Be provided or paid for under any other Government health or medical program, including, but not limited to, the programs administered by the Secretary of Defense, the Secretary of Labor and the Administrator of Veterans Affairs; or

(b) Be entitled to reimbursement by any private or Government health insurance or comparable plan.

§ 191.22 Administration of benefits.

(a) An eligible person, who desires medical or health care under this subpart or any person acting on behalf thereof, shall submit an application to the Office of Medical Services, Department of State, Washington, D.C. 20520 (hereafter referred to as the "Of-

fice"). The applicant shall supply all relevant information, including insurance information, requested by the Director of the Office. An eligible person may also submit claims to the Office for payment for emergency care when there is not time to obtain prior authorization as prescribed by this paragraph, and for payment for care received prior to or ongoing on the effective date of these regulations.

(b) The Office shall evaluate all requests for care and claims for reimbursement and determine, on behalf of the Secretary of State, whether the care in question is authorized under § 191.21 of this subpart. The Office will authorize care, or payment for care when it determines the criteria of such section are met. Authorization shall include a determination as to the necessity and reasonableness of medical or health care.

(c) The Office will refer applicants eligible for benefits under other Government health programs to the Government agency administering those programs. Any portion of authorized care not provided or paid for under another Government program will be reimbursed under this subpart.

(d) Eligible persons may obtain authorized care from any licensed facility or health care provider of their choice approved by the Office. To the extent possible, the Office will attempt to arrange for authorized care to be provided in a Government facility at no cost to the patient.

(e) Authorized care provided by a private facility or health care provider will be paid or reimbursed under this subpart to the extent that the Office determines that costs do not exceed reasonable and customary charges for similar care in the locality.

(f) All bills for authorized medical or health care covered by insurance shall be submitted to the patient's insurance carrier for payment prior to submission to the Office for payment of the balance authorized by this part. The Office will request the health care providers to bill the insurance carrier and the Department of State for authorized care, rather than the patient.

(g) Eligible persons will be reimbursed by the Office for authorized travel to obtain an evaluation of their claim under paragraph (b) of this section and for other authorized travel to obtain medical or health care authorized by this subpart.

§ 191.23 Disputes.

Any dispute between the Office and eligible persons concerning (a) whether medical or health care is required in a given case, (b) whether required care is incident to the hostage taking, or (c) whether the cost for any authorized care is reasonable and customary, shall be referred to the Medical Director, Department of State and the Foreign Service for a determination. If the person bringing the claim is not satisfied with the decision of the Medical Director, the dispute shall be referred to a medical board composed of three physicians, one appointed by the Medical Director, one by the eligible person and the third by the first two members. A majority decision by the board shall be binding on all parties.

SUBPART D—EDUCATIONAL BENEFITS

§ 191.30 Eligibility for benefits.

(a) A spouse or unmarried dependent child aged 18 or above of a hostage as determined under Subpart A of this subchapter shall be eligible for benefits under § 191.31 of this subpart. (Certain limitations apply, however, to persons eligible for direct assistance through other programs of the Veterans Administration under Chapter 35 of Title 38, United States Code).

(b) A Principal (see definition in § 191.3) designated as a hostage under Subpart A of this subchapter, who intends to change jobs or careers because of the hostage experience and who desires additional training for this purpose, shall be eligible for benefits under § 191.32 of this part unless such person is eligible for comparable benefits under Title 38 of the United States Code as determined by the Administrator of the Veterans Administration.

§ 191.31 Applicable family benefits.

(a) An eligible spouse or child shall be paid (by advancement or reimbursement) for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution approved in accordance with procedures established by the Veterans Administration, which shall be comparable to procedures established pursuant to Chapters 35 and 36 of Title 38 U.S.C.

(b) Except as provide in paragraph (c) or (d) of this section), payments shall be available under this subsection for an eligible spouse or child for education or training which occurs—

(1) 90 days after the Principal is placed in a captive status, and

(i) Through the end of any semester or quarter which begins before the date on which the Principal ceases to be in a captive status, or

(ii) If the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the twelve-week period following that date.

(c) In special circumstances and within the limitation of § 191.34, the Secretary of State may, under the criteria and procedures set forth in § 191.33, approve payments for education or training under this subsection which occurs after the date determined under paragraph (b) of thissection.

(d) In the event a Principal dies and the death is determined by the Secretary of State to be incident to that individual being a hostage, payments shall be available under this subsection for education or training of a spouse or child of the Principal which occurs after the date of death, up to the maximum that may be authorized under § 191.34.

§ 191.32 Applicable benefits for hostages.

(a) When authorized by the Secretary of State a Principal, following released from captivity, shall be paid (by advancement or reimbursement) for expenses incurred for subsistence, tuition, fees, supplies, books and equipment, and other educational expenses, while attending an educational or training institution approved in

accordance with procedures established by the Veterans Administration comparable to procedures established pursuant to Chapters 35 and 36 of Title 38 U.S.C. Payments shall be available under this subsection for education or training which occurs on or before—

(1) The end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the Principal ceases to be in a captive status, or

(2) If the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the twelve-week period following that date.

(b) A person eligible for benefits under this subsection shall not be required to separate from Government service in order to undertake the training or education, but while in Government service, may only receive such training or education during off-duty hours or during periods of approved leave.

§ 191.33 Administration of benefits.

(a) Any person desiring benefits under this part shall apply in writing to the Assistant Secretary of State for Administration, Department of State, Washington, D.C. 20520. The application shall specify the benefits desired and the basis of eligibility for those benefits. The Secretary of State shall make determinations of eligibility for benefits under this part, and shall forward approved applications to the Veterans Administration and advise the applicant of the name and address of the office in the Veterans Administration that will counsel the eligible persons on how to obtain the benefits that have been approved. Persons whose applications are disapproved shall be advised of the reasons for the disapproval.

(b) The Veterans Administration shall provide the same level and kind of assistance, including payments (by advancement or reimbursement) for authorized expenses up to the same maximum amounts, to spouses and children of hostages, and to Principals following their release from captivity as it does to eligible spouses and children of veterans and to eligible veterans, respectively, under Chapters 35 and 36 of Title 38, United States Code. The Veterans Administration shall, following consultation with the Secretary of State and under procedures it has established to administer section 1724 of Title 38, United States Code, discontinue assistance for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to such section 1724.

(c) An Advisory Board shall be established to advise on eligibility for benefits under paragraphs (c) and (d) of §§ 191.31 and 191.32. The Board shall be composed of the Assistant Secretary of State for Administration as Chairperson, the Director of the Office of Medical Services of the Department of State, the Executive Director of the regional bureau of the Department of State in whose region the relevant hostile action occurred, the Director of Personnel or other designee of the applicable employing agency, and a representative of the Veterans Administration designated by the Administrator.

(d) If an application is received from a spouse or child for extended training under § 191.31(c), the Secretary of Administration shall determine with the advice of the Advisory Board whether the

Principal, following release from captivity, is incapacitated by the hostage experience to the extent that (1) he or she has not returned to full-time active duty and is unlikely to be able to resume the normal duties of his or her position or career, or (2) in the event of a separation from Government service, a comparable position or career, for at least six months from the date the Principal is released from captivity. If the Secretary makes such a determination, he or she may approve, within the limits of § 191.34, an application under § 191.31(c) for up to one year of education or training. If the Principal remains incapacitated, the Secretary may approve additional training or education up to the maximum authorized under § 191.34.

§ 191.34 Maximum limitation on benefits.

(a) In no event may assistance be provided under this subpart for any individual for a period in excess of 45 months, or the equivalent thereof in part-time education or training.

(b) The eligibility of a spouse for benefits under paragraph (c) or (d) of § 191.31 shall expire on a date which is 10 years after the date of the release of the hostage, or the death of the hostage, respectively. The eligibility of a dependent child for benefits under such paragraphs (c) and (d) shall expire on the 26th birthday of such child or on such later date as determined by the Administrator of the Veterans Administration, as would be applicable if section 1712 of Title 38, United States Code, were applicable.

c. Victims of Terrorism Compensation

Department of State Regulations, 22 CFR Part 192

PART 192—VICTIMS OF TERRORISM COMPENSATION

SUBPART A—GENERAL

§ 192.1 Declarations of hostile action.

(a)(1) The Secretary of State shall declare when and where individuals in the Civil Service of the United States, including members of the Foreign Service and foreign service nationals, or a citizen, national or resident alien of the United States rendering personal services to the United States similar to the service of an individual in the Civil Service, have been placed in captive status commencing on or after November 4, 1979, for purposes of § 192.11(b) or January 21, 1981, for all other purposes under this part, which arises because of hostile action abroad and is a result of the individual's relationship with the U.S. Government as provided in the Victims of Terrorism Compensation Act, codified in 5 U.S.C. 5569 and 5570 and Executive Order 12598.

(2) The Secretary of State, in consultation with the Secretary of Labor, shall also declare when and where individuals in the Civil Service of the United States including members of the Foreign Service and foreign service nationals, including individuals rendering personal services to the United States similar to the service of an individual in the Civil Service, and family members of these individuals are eligible to receive compensation for disability or death occurring after January 21, 1981. Such determination shall be based on the decision by the Secretary of State that the disability or death was caused by hostile action abroad and was a result of the individual's relationship with the Government.

(3) Declarations of hostile action in domestic situations shall be made by the Secretary of State in consultation with the Attorney General of the United States and the head of the employing agency or agencies.

(b) The Secretary of State for actions abroad, or Agency Head for domestic actions, upon his or her own initiative, or upon application under § 192.2 shall determine which individuals in captive or missing status as so declared shall be considered captives eligible for benefits under the Act. The Secretary or Agency Head shall also determine who is eligible under the Act for benefits as a member of a family or household of a captive. The determination of the Secretary or Agency Head shall be final for purposes of determining captive status and cash payments, and not subject to judicial review, but any interested person may request reconsideration on the basis of information not considered at the time of original deter-

mination. The criteria for determination are set forth in sections 5569 and 5570 of Title 5 of U.S.C., and in these regulations.

§ 192.2 Application for determination of eligibility.

(a) Any person who believes that that person or other persons known to that person are either captives as defined in 5 U.S.C. 5569(a)(1), individuals who have suffered disability or death caused by hostile action which was a result of the individual's relationship with the U.S. Government, members of the family or household of such individuals as defined in § 192.3(a)(1), or a child eligible for benefits under subchapter D, may apply for benefits under this subchapter for that person, or on behalf of others entitled thereto.

(b) The application in connection with hostile action abroad shall be in writing, shall contain all identifying and other pertinent data available to the person applying about the person or persons claimed to be eligible, and shall be addressed to the Director General of the Foreign Service, Department of State, Washington, DC 20520. Applications may be filed within 60 days after the latest of: a declaration under § 192.1(a), the hostile action, or release from captivity. Later filing may be considered when in the opinion of the Secretary of State there is good cause for the late filing. Applications in connection with hostile action in domestic situations shall conform to these same requirements and be filed with the Agency Head.

§ 192.3 Definitions.

When used in this subchapter, unless otherwise specified, the terms—

(a) *Secretary of State* includes any person to whom the Secretary of State has delegated the responsibilities of carrying out this subpart.

(b) *Family Member* means a dependent of a captive and any individual other than a dependent who is a member of such person's family or household and shall include the following: (1) A spouse, (2) an unmarried dependent child including a step-child or adopted child under 21 years of age, (3) a person designated in official records or determined by the agency head or designee thereof to be dependent, and (4) other persons such as parents, non-dependent children, parents-in-law, persons who stand in the place of a spouse or parents, or other members of the family or household of a captive or employee, as determined by the Agency head concerned.

(c) *Agency Head* means the head of an Executive Agency of the U.S. Federal Government employing an individual affected by hostile action as covered by these regulations. The Secretary of State is the agency head for actions abroad with respect to any such individual not employed by an agency.

(d) *Captive* means any individual in a captive status commencing while such individual is in the Civil Service or a citizen, national or resident alien of the United States rendering personal service to the United States similar to the service of an individual in the Civil Service (other than as a member of the uniformed services).

(e) *Captive Status* means a missing status which, as determined under § 192.1, arises because of a hostile action and is a result of the individual's relationship with the Government.

(f) *Principal* means the person whose captivity, death or disability forms the basis for benefits for that individual or for a family member under this subchapter.

(g) *Individual rendering personal services to the United States similar to the service of an individual in the Civil Service* includes contract employees and other individuals fitting that description.

(h) *Pay and Allowances* has the meaning set forth in 5 U.S.C. 5561(6):

(1) Basic pay;

(2) Special pay;

(3) Incentive pay;

(4) Basic allowances for quarters;

(5) Basic allowance for subsistence; and

(6) Station per diem allowances for not more than 90 days.

(i) *Child* means a dependent as defined in paragraph (b)(2) of this section.

§ 192.4 Notification of eligible persons.

The Director General of the Foreign Service for the Department of State, or other Agency Head in domestic situations, shall be responsible for notifying each individual determined to be eligible for benefits under the Act, or if that person is not available, a representative or family member of the eligible individual.

§ 192.5 Relationships among agencies.

(a) To assist in ensuring that eligible persons receive compensation, each Agency Head shall notify the Director General of the Foreign Service of the Department of State of any incident which he or she believes may be appropriately declared a hostile action under § 192.1.

(b) The Director General of the Foreign Service for the Department of State shall promptly inform the head of any agency whenever an employee of that agency, or Family Member of such employee, is determined to be eligible for benefits under this subchapter in connection with hostile action.

(c) In accordance with inter-agency agreements between the Department of State and relevant agencies—

(1) The Department of Veterans Affairs will periodically bill the Department of State for expenses it pays for each eligible person under subpart E of this subchapter plus the administrative costs of carrying out its responsibilities under this part.

(2) The Department of State will, on a periodic basis, determine the cost for services and benefits it provides to all eligible persons under this subchapter, and bill each agency for the medical service costs (in connection with hostile action abroad) and educational benefits attributable to Principals and Family Members, plus a proportionate share of related administrative expenses.

SUBPART B—PAYMENT OF SALARY AND OTHER BENEFITS FOR CAPTIVE SITUATIONS

§ 192.10 Eligibility for benefits.

A person designated as a captive under subpart A of this subchapter shall be eligible for benefits under this subpart.

§ 192.11 Applicable benefits.

(a) Captives are entitled to receive or have credited to their account, for the period in captive status, the same pay and allowances to which they were entitled at the beginning of that period or to which they may have become entitled thereafter.

(b) A person designated as a captive (or a family member of a principal) under subpart A of this subchapter whose captivity commenced on or after November 4, 1979, is also entitled to receive a cash payment from the captive's employing agency, for each day held captive, in an amount equal to but not less than one-half of the amount of the world-wide average per diem rate established under 5 U.S.C. 5702.

§ 192.12 Administration of benefits.

(a) The amount deducted from the pay and allowances of captives must be recorded in the individual accounts of the agency concerned. A Treasury designated account, set up on the books of the agency concerned, may be utilized by the head of an agency to report the net amount of pay, allowances and interest credited to captives pursuant to 5 U.S.C. 5569(b). Interest payments under this section shall be paid out of funds available for salaries and expenses of the agency. Interest shall be computed at a rate for any calendar quarter equal to the average rate paid on United States Treasury bills with 3-month maturities issued during the preceding calendar quarter, with quarterly compounding.

(b) Cash payments to captives for each day of captivity shall be made by the head of an agency before the end of the one-year period beginning on the date on which the captive status terminates. In the event the captive dies in captivity or prior to payment of these benefits, payment shall be made to the eligible survivors under § 192.51(c) or the estate. A payment under this subchapter may be deferred or denied by the head of an agency pending determination of an offense committed by the captive under the provisions of 5 U.S.C. 8312.

SUBPART C—APPLICATION OF SOLDIERS' AND SAILORS' CIVIL RELIEF ACT TO CAPTIVE SITUATIONS

§ 192.20 Eligibility for benefits.

A person designated as a captive under subpart A of this subchapter, shall be eligible for benefits under this part.

§ 192.21 Applicable benefits.

(a) Eligible persons are entitled to the benefits provided by the Soldiers' and Sailors' CivilRelief Act of 1940 (50 U.S.C. App. 501, *et seq.*), including the benefits provided by section 701 (50 U.S.C. App 591) notwithstanding paragraph (c) thereof, but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 (50 U.S.C. App. 514, 515, 516, 540through 548, 561 through 572, and 574).

(b) In applying such Act for purposes of this section—

(1) The term "person in the military service" is deemed to include any such captive;

(2) The term "period of military service" is deemed to include the period during which such captive is in a captive status;

(3) References therein to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, or other officials of government are deemed, in the case of any captive, to be references to the Secretary of State; and

(4) The term "dependents" shall, to the extent permissible by law, be construed to include "Family Members" as defined in § 192.3 of these regulations.

§ 192.22 Description of benefits.

The following material is included to assist persons affected, by providing a brief description of some of the provisions of the Civil Relief Act. Note that not all of the sections applicable to captives have been included here. References to sections herein are references to the Civil Relief Act of 1940, as amended, followed by references in parentheses to the same section in the United States Code.

(a) *Guarantors, endorsers.* Section 103 (50 U.S.C. App 513) provides that whenever a captive is granted relief from the enforcement of an obligation, a court, in its discretion, may grant the same relief to guarantors and endorsers of the obligation. Amendments extend relief to accommodation makers and others primarily or secondarily liable on an obligation, and to sureties on a criminal bail bond. They provide, on certain conditions, that the benefits of the section with reference to persons primarily or secondarily liable on an obligation may be waived in writing.

(b) *Written Agreements.* Section 107 (50 U.S.C. App. 517) provides that nothing contained in the Act shall prevent captives from making certain arrangements with respect to their contracts and obligations, but requires that such arrangements be in writing.

(c) *Protection in Court.* Section 200 (50 U.S.C. App. 517) provides that if a captive is made a defendant in a court action and is unable to appear in court, the court shall appoint an attorney to represent the captive and protect the captive's interests. Further, if a judgment is rendered against the captive, an opportunity to reopen the case and present a defense, if meritorious, may be permitted within 90-days after release.

(d) *Court Postponement.* Section 201 (50 U.S.C. App. 521) authorizes a court to postpone any court proceedings if a captive is a party thereto and is unable to participate by reason of being a captive.

(e) *Relief Against Penalties.* Section 202 (50 U.S.C. App. 522) provides for relief against fines or penalties when a court proceeding involving a captive is postponed, or when the fine or penalties are incurred for failure to perform any obligation. In the latter case, relief depends upon whether the captive's ability to pay or perform is materially affected by being held captive.

(f) *Postponement of Action.* Section 203 (50 U.S.C. App. 523) authorizes a court to postpone or vacate the execution of any judgment, attachment or garnishment.

(g) *Period of Postponement.* Section 204 (50 U.S.C. App. 524) authorizes a court to postpone proceedings for the period of captivity and for 3 months thereafter, or any part thereof.

(h) *Extended Time Limits.* Section 205 (50 U.S.C. App. 525) excludes the period of captivity from computing time under existing or future statutes of limitation. Amendments extend relief to include actions before administrative agencies, and provide that the period of captivity shall not be included in the period for redemption of real property sold to enforce any obligation, tax, or assessment. Section 207 excludes application of section 205 to any period of limitation prescribed by or under the internal revenue laws of the United States.

(i) *Interest Rates.* Section 206 (50 U.S.C. App. 526) provides that interest on the obligations of captives shall not exceed a specified per centum per annum, unless the court determines that ability to pay greater interest is not affected by being held captive.

(j) *Misuse of Benefits.* Section 600 (50 U.S.C. App. 580) provides against transfers made with intent to delay the just enforcement of a civil right by taking advantage of the Act.

(k) *Further Relief.* Section 700 (50 U.S.C. App. 590) provides that a person, during a period of captivity or 6 months thereafter, may apply to a court for relief with respect to obligations incurred prior to captivity, or any tax or assessment whether falling due prior to or during the period of captivity. The court may, on certain conditions, stay the enforcement of such obligations.

(l) *Stay of Eviction.* Section 300 (50 U.S.C. App. 530) provides that a captive's dependents shall not be evicted from their dwelling if the rental is minimal, except upon leave of a court. If it is proved that inability to pay rent is a result of being in captivity, the court is authorized to stay eviction proceedings for not longer than 3 months. An amendment extends relief to owners of the premises with respect to payment on mortgage and taxes.

(m) *Contract and Mortgage Obligations.* As provided by sections 301 and 302 of the Act (50 U.S.C. App. 531 and 532), as amended, contracts for the purchase of real and personal property, which originated prior to the period of captivity, may not be rescinded, terminated, or foreclosed, or the property repossessed, except as provided in section 107 (50 U.S.C. App. 517), unless by an order of a court. The mentioned sections give the court wide discretionary powers to make such disposition of the particular case as may be equitable in order to conserve the interests of both the captive and the creditor. The cited sections further provide that the court may stay the proceedings for the period of captivity and 3 months thereafter, if in its opinion the ability of the captive to perform the obligation is materially affected by reason of captivity. Section 303 (50 U.S.C. App. 533) provides that the court may appoint appraisers and, based upon their report, order such sum as may be just, if any, paid to captives or their dependents, as a condition to foreclosing a mortgage, resuming possession of property, and rescinding or terminating a contract.

(n) *Termination of a Lease.* Section 304 (50 U.S.C. App. 534) provides, in general, that a lease covering premises occupied for dwelling, business, or agricultural purpose, executed by persons who subsequently become captives, may be terminated by a notice in

writing given to the lessor, subject to such action as may be taken by a court on application of the lessor. Termination of a lease providing for monthly payment of rent shall not be effective until 30 days after the first date on which the next rental payment is due, and, in the case of other leases, on the last day of the month following the month when the notice is served.

(o) *Assignment of Life Insurance Policy.* Section 305 (50 U.S.C. App. 535) provides that the assignee of a life insurance policy assigned as security, other that the insurer in connection with a policy loan, except upon certain conditions, shall not exercise any right with respect to the assignment during period of captivity of the insured and one year thereafter, unless upon order of a court.

(p) *Storage Lien.* Section 305 (50 U.S.C. App. 535) provides that a lien for storage of personal property may not be foreclosed except upon court order. The court may stay proceedings or make other just disposition.

(q) *Extension of Benefits to Dependents.* Section 306 (50 U.S.C. App. 536) extends the benefits to section 300 through 305 to dependents of a captive.

(r) *Real and Personal Property Taxes.* Section 500 (50 U.S.C. App. 560) forbids sale of property, except upon court leave, to enforce collection of taxes or assessments (other than taxes on income) on personal property or real property owned and occupied by the captive or dependents thereof at the commencement of captivity and still occupied by the captive's dependents or employees. The court may stay proceedings for a period not more than 6 months after termination of captivity. When by law such property may be sold to enforce collection, the captive will have the right to redeem it within 6 months after termination of captivity. Unpaid taxes or assessments bear interest at 6 percent.

(s) *Income Taxes.* Section 513 provides for deferment of payment of income taxes.

(t) *Certification of Captive.* Section 601 provides that a certificate signed by the agency head shall be prima facie evidence that the person named has been a captive during the period specified in the certification.

(u) *Interlocutory Orders.* Section 602 (50 U.S.C. App. 582) provides that a court may revoke an interlocutory order it has issued pursuant to any provision of the Soldiers' and Sailors' Civil Relief Act of 1940.

(v) *Power of Attorney.* Section 701 (50 U.S.C. App. 591) provides that certain powers of attorney executed by a captive which expire by their terms after the person was captured shall be automatically extended for the period of captivity. Exceptions are made with respect to powers of attorney which by their terms clearly indicate they are to expire on the date specified irrespective of captive status. (Section 701 applies to American captives notwithstanding paragraph (c) thereof which states that it applies only to powers of attorney issued during the "Vietnam era").

§ 192.23 Administration of benefits.

(a) The Director General of the Department of State or Agency Head will issue certifications or other documents when required for purposes of the Civil Relief Act.

(b) The Director General of the Department of State or Agency Head shall whenever possible promptly inform the chief legal officer of each U.S. State in which captives maintain residence of all persons determined to be captives eligible for assistance under this subpart.

SUBPART D—MEDICAL BENEFITS FOR CAPTIVE SITUATIONS

§ 192.30 Eligibility for benefits.

A person designated as a captive or family member of a captive under subpart A of this subchapter, shall be eligible for benefits under this subpart.

§ 192.31 Applicable benefits.

A person eligible for benefits under this part shall be eligible for authorized physical and mental health care at U.S. Government expense (through either or advancement or reimbursement), and for payment of other authorized expenses related to such care or for obtaining such care for any illness or injury, to the extent, as determined by the Secretary of State or Agency Head, that such care is incident to an individual being held captive and is not covered by—

(a) Any other Government health or medical program, including, but not limited to, the programs administered by the Secretary of Defense, the Secretary of Labor and the Secretary of Veteran Affairs; or

(b) Reimbursement by any private or Government health insurance or comparable plan. In the case of coverage by a private or Government health insurance plan, that carrier will be designated as the primary carrier, and benefits under this subpart will serve only to supplement expenses not paid by the primary carrier.

§ 192.32 Administration of benefits.

(a) (1) A person eligible due to hostile action abroad, who desires medical or health care under this subpart or any person acting on behalf thereof, shall submit an application to the Office of Medical Services, Department of State, Washington, DC 20520 (hereafter referred to as the "Office"). That office will handle and process medical applications and claims using the criteria in this subpart. Persons eligible in connection with domestic situations shall make application with the Agency Head, and the Agency Head shall apply the following procedures in a similar manner in administering medical benefits in domestic situations involving the respective agency.

(2) The applicant shall supply all relevant information, including insurance information, requested by the Director of the Office. An eligible person may also submit claims to the Office for payment for emergency care when there is not time to obtain prior authorization as prescribed by this paragraph.

(b) The Office shall evaluate all requests for care and claims for reimbursement and determine, on behalf of the Secretary of State, whether the care in question is authorized under § 192.31 of this subpart. The Office will authorize care or payment of care, when it determines the criteria of § 192.31 are met. Authorization shall

include a determination as to the necessity and reasonableness of medical or health care.

(c) The Office will refer applicants eligible for benefits under other Government health programs to the Government agency administering those programs. Any portion of authorized care not provided or paid for under another Government program or private insurance will be reimbursed under this subpart, subject to a determination of the reasonableness of charges. Such determination shall be made by applying the fee schedule established by the Office of Workers' Compensation Programs (OWCP), Department of Labor, which is used in paying medical benefits for work-related injuries to employees who are fully covered by OWCP.

(d) Eligible persons may obtain authorized care from any licensed facility or health care provider of their choice approved by the Office. To the extent possible, the Office will attempt to arrange for authorized care to be provided in a Government facility at no cost to the patient.

(e) Authorized care provided by a private facility or health care provider will be paid or reimbursed under this subpart to the extent that the Office determines that costs do not exceed reasonable and customary charges for similar care in the locality.

(f) All bills for authorized medical or health care covered by insurance shall be submitted to the patient's insurance carrier for payment prior to submission to the Office for payment of the balance authorized by this part. The Office will request the health care providers to bill the insurance carrier and the Department of State for authorized care, rather than the patient.

(g) Eligible persons will be reimbursed by the Office for authorized travel to obtain an evaluation of their claim under paragraph (b) of this section and for other authorized travel to obtain medical or health care authorized by this subpart.

§ 192.33 Dispute.

Any dispute between the Office and eligible persons concerning whether medical or health care is required in a given case, whether required care is incident to the captivity, or whether the cost for any authorized care is reasonable and customary, shall be referred to the Medical Director, Department of State, for a determination. If the person bringing the claim is not satisfied with the decision of the Medical Director, the dispute shall be referred to a medical board composed of three physicians, one appointed by the Medical Director, one by the eligible person and the third by the first two members. A majority decision by the board shall be binding on all parties.

SUBPART E—EDUCATIONAL BENEFITS FOR CAPTIVE SITUATIONS

§ 192.40 Eligibility for benefits.

(a) A spouse or unmarried dependent child (including an unmarried dependent stepchild or adopted child) under 21 years of age of a captive as determined under subpart A of the subchapter shall be eligible for benefits under 192.41 of this subpart. (Certain limitations apply, however, to persons eligible for direct assistance

through other programs of the Department of Veterans' Affairs under Chapter 35 of Title 38, United States Code).

(b) A Principal designated as a captive under subpart A of this subchapter, who intends to change jobs or careers because of the captive experience and who desires additional training for this purpose, shall be eligible for benefits under § 192.42 of this part, unless the Secretary of the Department of Veterans' Affairs determines that such person is eligible to receive educational assistance for the additional training under either chapters 30, 32, 34, or 35, title 38 U.S.C.

§ 192.41 Applicable family benefits.

(a) An eligible spouse or child shall be paid (by advancement or reimbursement) for expenses incurred for subsistence, tuition, fees, supplies, books and equipment, and other educational expenses while attending an educational or training institution approved in accordance with procedures established by the Department of Veterans' Affairs, which shall be comparable to procedures established pursuant to Chapters 35 and 36 of Title 38 U.S.C.

(b) Except as provided in paragraph (c) or (d) of this section, payments shall be available under this subsection for an eligible spouse or child for educational training which occurs—

(1) 90 days after the Principal is placed in a captive status, and

(i) Through the end of any semester or quarter which begins before the date on which the Principal ceases to be in a captive status, or

(ii) If the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the sixteen-week period following that date.

(c) In special circumstances and within the limitation of § 192.44, the Secretary of State, under the criteria and procedures set forth in § 192.43, may approve payments for education or training under this subsection which occurs after the date determined under paragraph (b) of this section.

(d) In the event a Principal dies and the death is determined by the Agency Head to be incident to that individual being a captive, payments shall be available under this subsection for education or training of a spouse or child of the Principal which occurs after the date of death, up to the maximum that may be authorized under § 192.44.

(e) Family benefits under this subsection shall not be available for any spouse or child who is eligible for assistance under Chapter 35 of Title 38 U.S.C., or similar assistance under any other law.

§ 192.42 Applicable benefits for captives.

(a) When authorized by the Agency Head, a Principal, following release from captivity, may be paid (by advancement or reimbursement) for expenses incurred for subsistence, tuition, fees, supplies, books and equipment, and other educational expenses while attending an educational or training institution approved in accordance with procedures established pursuant to Chapter 35 and 36 of Title 38 U.S.C. Payments shall be available under this subsection for education or training which occurs on or before—

(1) The end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the Principal ceases to be in a captive status, or

(2) If the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the sixteen-week period following that date.

(b) A person eligible for benefits under this subsection shall not be required to separate from Government service in order to undertake the training or education. However, no educational assistance allowance shall be paid to any eligible person who is attending a course of education or training paid for under the Government Employees' Training Act and whose full salary is being paid to such person while so training.

§ 192.43 Administration of benefits.

(a) Any person desiring benefits under this part, shall apply in writing to the Director General of the Foreign Service, Department of State, Washington, DC 20502. The application shall specify the benefits desired and the basis of eligibility for those benefits. The Director General of the Foreign Service, on behalf of the Secretary of State, shall make determinations of eligibility for benefits under this part, and shall forward certified applications to the Department of Veterans' Affairs and advise the applicant of the name and address of the office in the Department of Veterans' Affairs that will counsel the eligible persons on how to obtain the benefits that have been approved. Persons whose applications are disapproved shall be advised in writing of the reason for the disapproval. Applications for foreign service nationals and their dependents shall be made with the Office of Foreign Service National Personnel, Department of State. That office will handle the administrative details and benefits using the criteria specified in this subchapter.

(b) The Department of Veterans' Affairs shall provide the same level and kind of assistance, including payments (by advancement or reimbursement) for authorized expenses up to the same maximum amounts, to spouses and children of captives, and to Principals following their release from captivity as it does to eligible spouses and children of veterans and to eligible veterans, respectively, under Chapters 35 and 36 of Title 38 U.S.C. The Department of Veterans' Affairs shall, under procedures it has established to administer section 1724 of Title 38, U.S.C., discontinue assistance for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to such section 1724.

(c) An Advisory Board shall be established to advise on eligibility for benefits under paragraphs (c) and (d) of § 192.41. The Board shall be composed of the Under Secretary of State for Management as Chair, the Director of the Office of Medical Services of the Department of State, the Executive Director of the regional bureau of the Department of State in whose region the relevant hostile action occurred, the Director of Personnel or other designee of the applicable employing agency, and a representative of the Department of Veterans' Affairs designated by the Secretary.

(d) If an application is received from a spouse or child for extended training under § 192.41(c), the Director General of the Foreign Service of the Department of State shall determine with the advice of the Advisory Board whether the Principal, following release from captivity, is incapacitated by the captive experience—

(1) To the extent that he or she has not returned to full-time active duty and is unlikely to be able to resume the normal duties of his or her position or career, or

(2) In the event of a separation from Government service, that the Principal is unable to assume a comparable position or career, for at least six months from the date of release from captivity. If the Secretary makes such a determination, he or she may approve, within the limits of § 192.44, an application under § 192.41(c) for up to one year of education or training. If the Principal remains incapacitated, the Secretary may approve additional training or education up to the maximum authorized under 192.44.

§ 192.44 Maximum limitation on benefits.

(a) In no event may assistance be provided under this subpart for any individual for a period in excess of 45 months, or the equivalent thereof in part-time education or training.

(b) The eligibility of a spouse for benefits under paragraph (c) or (d) of § 192.41 shall expire on a date which is 10 years after the date of the release of the captive or the death of the captive while in captivity, respectively. The eligibility of a dependent child for benefits under § 192.41 (c) and (d) shall expire on the 21st birthday of such child.

SUBPART F—COMPENSATION FOR DISABILITY OR DEATH

§ 192.50 Eligibility for benefits.

(a) (1) The Federal Employees' Compensation Act (5 U.S.C. 8101 *et seq*.) provides for medical coverage and the payment of compensation for wage loss and for permanent impairment of specified members and functions of the body incurred by employees as a result of an injury sustained while in the performance of their duties to the United States. The Office of Workers' Compensation Programs (OWCP), Department of Labor, administers the program. All individuals employed by the U.S. Government as defined by 5 U.S.C. 8101(1) are eligible to apply for wage-loss and medical benefits under the FECA. Family members of such employees may apply for death benefits. An application must be made with OWCP by such individual or on behalf of such individuals, prior to the determination of eligibility or payment of any benefits under this subpart.

(2) In the case of foreign service national employees covered for work related injury or death under the local compensation plan established pursuant to 22 U.S.C. 3968, such applications should be filed with the organizational authority in the country of employment which provides such coverage. Benefit levels payable to foreign service national employees under this subpart shall be no less than comparable benefits payable to U.S. citizen employees under FECA. Eligibility determination and payment of supplemental ben-

efits, if any, is the responsibility of the Director General of the Foreign Service for the State Department.

(b) Any death or disability benefit payment made under this section shall be reduced by the amount of any other death or disability benefits funded in whole or in part by the United States, except that the amount shall not be reduced below zero. The cash payment under § 192.11(b) of subpart B is excluded from the offset requirement.

(c) Compensation under this section may include payment (whether advancement or reimbursement) for any medical or health expenses relating to the death or disability involved to the extent that such expenses are not covered under subpart D of these regulations. Procedures of subpart D of these regulations shall apply in making such determinations.

§ 192.51 Death benefit.

(a) The Secretary of State or Agency Head may provide for payment, by the employing agency, of a death benefit to the surviving dependents of any eligible individual under § 192.1(a) who dies as a result of injuries caused by hostile action whose death was the result of the individual's relationship with the Government.

(b) The death benefit payment for an employee shall be equal to one year's salary at the time of death. Such death benefit is subject to the offset provisions under § 192.50(b) including the Federal Employees' Compensation Act. The death benefit for an employee's spouse and other eligible individuals under § 192.1(b) of subpart A shall be equal to one year's salary of theprincipal at the time of death.

(c) A death benefit payment for an adult under this section shall be made as follows:

(1) First, to the widow or widower.

(2) Second, to the dependent child, or children in equal shares, if there is no widow or widower.

(3) Third, to the dependent parent, or dependent parents in equal shares, if there is no widow, widower, or dependent child.

(4) Fourth, to adult, non-dependent children in equal shares.

If there is no survivor entitled to payment under this paragraph (c), no payment shall be made.

(d) A death benefit payment for a child under this section shall be made as follows: To the surviving parents or legal guardian. If there are no surviving parents or legal guardian, no payment shall be made.

(e) As used in this section—each of the terms "widow", "widower", and "parent" shall have the same meaning given such term by section 8101 of title 5, U.S.C.; "child" has the meaning given in § 192.3(b)(2).

§ 192.52 Disability benefits.

(a) Principals who qualify for benefits under § 192.1 and are employees of the U.S. Government are considered for disability payments under programs administered by the Office of Workers' Compensation Programs (OWCP), Department of Labor, or in the case of foreign service national employees, the programs may be administered by either OWCP or the organizational authority in the

country of employment which provides similar coverage under the local compensation plan established pursuant to 22 U.S.C. 3968. Normal filing procedures as specified by either OWCP or the local organizational authority which provides such coverage should be followed in determining eligibility. Duplicate benefits may not be received from both OWCP and the local organizational authority for the same claim. Additional benefits to persons qualifying for full FECA or similar benefits would not normally be payable under this subpart, except to foreign service national employees whose benefit levels are below comparable benefits payable to U.S. citizen employees under FECA. Foreign service national employees whose benefit levels are below comparable benefits payable to U.S. citizens under FECA may receive benefits under this subpart so that total benefits received are comparable to the benefits payable to U.S. citizen employees under FECA.

(b) Family members who do not qualify for either OWCP benefits or benefits from the organizational authority in the country of employment which provides similar coverage, and anyone eligible under § 192.1(a) who does not qualify for full benefits from OWCP, must file an application for disability benefits with the Office of Medical Services, Department of State, for a determination of eligibility under this subpart, if connected with hostile action abroad. Applications made in connection with hostile action in domestic situations will be directed to the Agency Head. Such applications for disability payments will be considered using the same criteria for determination as established by OWCP.

(c) Family members who are determined to be disabled by the Office of Medical Services, or Agency Head using the OWCP criteria, are eligible to receive a lump-sum payment based on the following guidelines:

(1) Permanent total disability rate. A lump-sum payment equal to two year's salary of the Principal at the time of the qualifying incident.

(2) Temporary total disability rate. A lump-sum payment computed at $66^{2}/_{3}$ percent of the monthly pay rate of the Principal for each month of temporary total disability, not to exceed one year's salary of the Principal.

(3) Partial disability rate. A lump-sum payment authorized in accordance with 5 U.S.C. 8106, equal to $66^{2}/_{3}$ percent of the difference between the monthly pay at the time of the qualifying incident and the monthly wage-earning capacity of the family member after the beginning of the partial disability, not to exceed one year's salary of the Principal. For family members with no wage-earning history, a lump-sum payment equal to $66^{2}/_{3}$ percent of the difference between the estimated monthly wage-earning capacity of the family member at the time of the qualifying incident and the monthly wage-earning capacity after the beginning of the partial disability, not to exceed one year's salary of the Principal may be authorized, using the criteria established by OWCP for such determination.

(4) Special loss schedule. In addition to the temporary disability benefits payable in accordance with this subsection, if there is permanent disability involving the loss, or loss of use, of a member or function of the body or involving disfigurement, a lump-sum payment may be authorized at the rate of 25 percent of the payment

authorized in accordance with the schedule and procedures in 5 U.S.C. 8107 and 20 CFR 10.304. The Director General of the Foreign Service of State or the Agency Head, may at their discretion, authorize payments under this subpart in addition to payments for those organs and members of the body specified in 5 U.S.C. 8107 and in 20 CFR 10.304. The provisions of 20 CFR part 10, subpart D, which prevent the payment of disability compensation and scheduled compensation simultaneously, shall not apply to these regulations.

Cash payments under this subpart are the responsibility of the employing agency.

d. Benefits for Hostages in Iraq, Kuwait, or Lebanon

Department of State Regulations, 22 CFR Part 193

PART 193—BENEFITS FOR HOSTAGES IN IRAQ, KUWAIT, OR LEBANON

§ 193.1 Determination of hostage status.

(a) The Secretary of State shall, upon his or her own initiative or upon application under § 193.3, notify the appropriate federal authorities, in classified or unclassified form as he or she determines to be necessary in the best interests of the affected individuals, the names of persons whom he or she determines to be in a hostage status within the meaning of subsection 599C)(d) of Public Law No. 101–513.

(b) In the case of Iraq and Kuwait, hostage status may be accorded to United States nationals, or family members of United States nationals,

(1) who are or who have been in a hostage status as defined in paragraph (b)(2) of this section in Iraq or Kuwait at any time during the period beginning on August 2, 1990 and terminating on the date on which United States economic sanctions are lifted, and

(2) who are being or who have been held in custody by governmental or military authorities of such country or who are taking or have taken refuge in the country in fear of being taken into such custody (including residing in any diplomatic mission or consular post in that country.)

(c) In the case of Lebanon, hostage status may be accorded to United States nationals, which, for purposes of this paragraph, includes lawful permanent residents of the United States, who have been forcibly detained, held hostage, or interned for any period of time after June 1, 1982, by any government (including the agents thereof) or group in Lebanon for the purpose of coercing the United States or any other government.

(d) Determinations of the Secretary regarding questions of eligibility status under 599C of the Act shall be final, but interested persons may request administrative reconsideration on the basis of information which was not considered at the time of the original determination. The criteria for such determinations are those which are prescribed in the Act and in these regulations.

(e) Eligibility determinations made under these regulations shall not be deemed to confer federal employment status for any purpose.

(f) Eligibility for benefits shall be subject to the availability of funds under subsection 599C(e) of the Act.

§ 193.2 Definitions.

(a) For purposes of eligibility, the term *covered family members* shall be defined as prescribed by the Office of Personnel Management in accordance with 5 CFR § 890.1202.

(b) The term *United States economic sanctions against Iraq* means the exercise of authorities under the International Emergency Economic Powers Act by the President with respect to financial transactions with Iraq.

(c) The term *United States national* means any individual who is a citizen of the United States or who, though not a citizen of the United States, owes permanent allegiance to the United States.

(d) The term *lawful permanent resident* means any individual who has been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

§ 193.3 Applications.

(a) Individuals who claim any eligibility under section 599C of the Act may apply for benefits in accordance with the procedures described herein. Family members may submit applications on behalf of persons who are unable to do so by reason of their hostage status.

(b) All applications for benefits [1] shall be attested to by a declaration under penalty of perjury as prescribed in section 1746 of title 28 of the United States Code.

(c) Applications shall contain all identifying and other data to support the claim, including, where appropriate, copies of relevant documents respecting status, salary, and health and life insurance coverage.

(d) All applications shall be mailed to: Kuwait/Iraq/Lebanon Hostage Benefits Program, room 4817, Department of State, Washington, DC 20520–4818.

(e) Applications should be filed as quickly as possible, because benefits are available only until the funds allocated under the Act have been spent. When funds have been expended, the Department will publish a notice in the FEDERAL REGISTER so stating.

(f) The Department of State may require of applicants such additional verification of hostage status and other pertinent information as it deems necessary.

§ 193.4 Consideration and denial of claims: Notification of determinations.

(a) No application under this subpart may be denied by the Department except upon the written concurrence of the Assistant Legal Adviser for Consular Affairs.

(b) All applications shall be considered, evaluated, and/or prepared by the Federal Benefits Section of the Office of Overseas Citizens Consular Services. All federal agencies or other interested persons should contact the office at the address listed in § 193.3(d).

[1] Application form may be obtained from the Office of Citizens Consular Services, Department of State, Washington, DC 20520.

(c) The Department of State shall, where possible, notify individuals in writing of their eligibility for benefits under the Act, or ineligibility therefor, within thirty days of the Department's decision.

2. Department of the Treasury

a. Terrorism List Governments Sanctions Regulations

31 CFR Part 596; Authority—18 U.S.C. 2332d; 31 U.S.C. 321(b); Source—61 FR 43463, August 23, 1996, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 596.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Differing foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. Except as otherwise authorized in this part, no license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. Except as otherwise authorized in this part, no license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. *See* § 596.503.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

[62 FR 45112; August 11, 1997]

Subpart B—Prohibitions

§ 596.201 Prohibited financial transactions.

Except as authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, no United States person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act, 50 U.S.C. App. 2405, as a country supporting international terrorism, shall engage in a financial transaction with the government of that country. Countries designated under section 6(j) of the Export Administration Act as of the effective date of this part are listed in the following schedule.

SCHEDULE

Cuba.
Iran.
Iraq.
Libya.

North Korea.
Sudan.
Syria.

§ 596.202 Evasions; attempts; conspiracies.

Any transaction for the purpose of, or which has the effect of, evading or avoiding, or which facilitates the evasion or avoidance of, any of the prohibitions set forth in this part, is hereby prohibited. Any attempt to violate the prohibitions set forth in this part is hereby prohibited. Any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is hereby prohibited.

Subpart C—General Definitions

§ 596.301 Donation.

The term *donation* means a transfer made in the form of a gift or charitable contribution.

§ 596.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part which is 12:01 a.m. EDT, August 22, 1996.

§ 596.303 Financial institution.

The term *financial institution* shall have the definition given that term in 31 U.S.C. 5312(a)(2) or the regulations promulgated thereunder, as from time to time amended.

NOTE: The breadth of the definition precludes its reproduction in this section.

§ 596.304 Financial transaction.

The term *financial transaction* shall have the meaning set forth in 18 U.S.C. 1956(c)(4), as from time to time amended. As of the effective date, this term includes:

(a) A transaction which in any way or degree affects interstate or foreign commerce;

(1) Involving the movement of funds by wire or other means; or

(2) Involving one or more monetary instruments; or

(3) Involving the transfer of title to any real property, vehicle, vessel, or aircraft; or

(b) A transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree.

§ 596.305 General license.

The term *general license* means any license or authorization the terms of which are set forth in this part.

§ 596.306 License.

Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

§ 596.307 Monetary instruments.

The term *monetary instruments* shall have the meaning set forth in 18 U.S.C. 1956(c)(5), as from time to time amended. As of the effective date, this term includes coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery.

§ 596.308 Person; entity.

(a) The term *person* means an individual or entity.

(b) The term *entity* means a partnership, association, corporation, or other organization.

§ 596.309 Specific license.

The term *specific license means any license or authorization not set forth in this part but issued pursuant to this part.*

§ 596.310 Terrorism List Government.

The term *Terrorism List Government* includes:

(a) The government of a country designated under section 6(j) of the Export Administration Act, as well as any political subdivision, agency, or instrumentality thereof, including the central bank of such a country;

(b) Any entity owned or controlled by such a government.

§ 596.311 Transaction.

The term *transaction* shall have the meaning set forth in 18 U.S.C. 1956(c)(3), as from time to time amended. As of the effective date, this term includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

§ 596.312 United States.

The term *United States* means the United States, including its territories and possessions.

§ 596.313 United States person.

The term *United States person* means any United States citizen or national, permanent resident alien, juridical person organized under the laws of the United States, or any person in the United States.

Subpart D—Interpretations

§ 596.401 Reference to amended sections.

Except as otherwise specified, reference to any section of this part or to any regulation, ruling, order, instruction, direction, or li-

cense issued pursuant to this part refers to the same as currently amended.

§ 596.402 Effect of amendment.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not, unless otherwise specifically provided, affect any act done or omitted to be done, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 596.403 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized.

§ 596.404 Financial transactions transferred through a bank of a Terrorism List Government.

For the purposes of this part only, a financial transaction not originated by a Terrorism List Government, but transferred to the United States through a bank owned or controlled by a Terrorism List Government, shall not be deemed a financial transaction with the government of a country supporting international terrorism pursuant to § 596.201.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 596.501 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of the license, unless specifically provided in such license or other authorization.

(b) No regulation, ruling, instruction, or license authorizes a transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to a part in 31 CFR chapter V. No regulation, ruling, instruction, or license referring to this part authorizes any transactions prohibited by any provision of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

(c) Any regulation, ruling, instruction or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 596.502 Exclusion from licenses and authorizations.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license, or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons, property, transactions, or classes thereof. Such action is binding upon all persons receiving actual or constructive notice of such exclusion or restriction.

§ 596.503 Financial transactions with a Terrorism List Government otherwise subject to 31 CFR chapter V.

United States persons are authorized to engage in financial transactions with a Terrorism List Government that is subject to regulations contained in parts of 31 CFR chapter V other than this part to the extent and subject to the conditions stated in such other parts, or in any regulations, orders, directives, rulings, instructions, or licenses issued pursuant thereto.

§ 596.504 Certain financial transactions with Terrorism List Governments authorized.

(a) United States persons are authorized to engage in all financial transactions with a Terrorism List Government that is not otherwise subject to 31 CFR chapter V, except for a transfer from a Terrorism List Government:

(1) Constituting a donation to a United States person; or

(2) With respect to which the United States person knows (including knowledge based on advice from an agent of the United States Government), or has reasonable cause to believe, that the transfer poses a risk of furthering terrorist acts in the United States.

(b) Nothing in this section authorizes the return of a transfer prohibited by paragraph (a)(2) of this section.

§ 596.505 Certain transactions related to stipends and scholarships authorized.

(a) United States persons are authorized to engage in all financial transactions with respect to stipends and scholarships covering tuition and related educational, living and travel expenses provided by the Government of Syria to Syrian nationals or the Government of Sudan to Sudanese nationals who are enrolled as students in an accredited educational institution in the United States. Representations made by an accredited educational institution concerning the status of a student maybe relied upon in determining the applicability of this section.

(b) Nothing in this section authorizes a transaction prohibited by § 596.504(a)(2).

[61 FR 67944, Dec. 26, 1996]

Subpart F—Reports

§ 596.601 Records and reports.

For provisions relating to records and reports, see subpart C of part 501 of this chapter.

[62 FR 45112; August 11, 1997]

Subpart G—Penalties

§ 596.701 Penalties.

Attention is directed to 18 U.S.C. 2332d, as added by Public Law 104–132, section 321, which provides that, except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, a United States person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act, 50 U.S.C. App. 2405, as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

Subpart H—Procedures

§ 596.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see subpart D of part 501 of this chapter.

[62 FR 45112; August 11, 1997]

§ 596.802 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to section 321 of the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. 104–132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d), may be taken by the Director, Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

[62 FR 45112 removed §§ 596.802–4 and 596.806, and redesignated § 596.805 as § 506.802; August 11, 1997.]

Subpart I—Paperwork Reduction Act

§ 596.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act of information collections relating to recordkeeping and reporting requirements, to licensing procedures (including those pursuant to statements of licensing policy), and to other procedures, see Sec. 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

[62 FR 45112; August 11, 1997]

APPENDICES TO CHAPTER V

Notes: The alphabetical lists below provide the following information (to the extent known) concerning blocked persons, specially

designated nationals, specially designated terrorists, specially designated narcotics traffickers and blocked vessels.

For blocked individuals: name and title (known aliases), address, (other identifying information), (the notation "individual"), [sanctions program under which the individual is blocked].

For blocked entities: name (known former or alternate names), address, [sanctions program under which the entity is blocked].

For blocked vessels: name, sanctions program under which the vessel is blocked, registration of vessel, type, size in dead weight and/or gross tons, call sign, vessel owner, and alternate names.

Abbreviations: "a.k.a." means "also known as"; "f.k.a." means "formerly known as"; "n.k.a." means "now known as"; "DOB" means "date of birth"; "DWT" means "Deadweight"; "FRY (S&M)" means "Federal Republic of Yugoslavia (Serbia and Montenegro)"; "GRT" means "Gross Registered Tonnage"; "POB" means "place of birth"; "SRBH" refers to the suspended sanctions against the Bosnian Serbs.

Reference to regulatory parts in chapter V: * * *[1]

[1] For complete text of appendices, see 31 CFR Part 596 as prepared by the Office of Foreign Assets Control, published by the National Archives, and occasionally updated in the *Federal Register*.

b. Foreign Terrorist Organizations Sanctions Regulations

31 CFR Part 597; Authority—31 U.S.C. 321(b); Public Law 104–132, 110 Stat. 1214, 1248–53 (8 U.S.C. 1189, 18 U.S.C. 2339B); Source—62 FR 52493, October 8, 1997, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ Sec. 597.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Differing statutory authority and foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations. This part does not implement, construe, or limit the scope of any other part of this chapter, including (but not limited to) the Terrorism Sanctions Regulations, part 595 of this chapter, and does not excuse any person from complying with any other part of this chapter, including (but not limited to) part 595 of this chapter.

(c) This part does not implement, construe, or limit the scope of any criminal statute, including (but not limited to) 18 U.S.C. 2339B(a)(1) and 2339A, and does not excuse any person from complying with any criminal statute, including (but not limited to) 18 U.S.C. 2339B(a)(1) and 18 U.S.C. 2339A.

Subpart B—Prohibitions

§ 597.201 Prohibited transactions involving blocked assets or funds of foreign terrorist organizations or their agents.

(a) Upon notification to Congress of the Secretary of State's intent to designate an organization as a foreign terrorist organization pursuant to 8 U.S.C. 1189(a), until the publication in the Federal Register as described in paragraph (c) of this section, any U.S. financial institution receiving notice from the Secretary of the Treasury by means of order, directive, instruction, regulation, ruling, license, or otherwise shall, except as otherwise provided in such no-

tice, block all financial transactions involving any assets of such organization within the possession or control of such U.S. financial institution until further directive from the Secretary of the Treasury, Act of Congress, or order of court.

(b) Except as otherwise authorized by order, directive, instruction, regulation, ruling, license, or otherwise, from and after the designation of an organization as a foreign terrorist organization pursuant to 8 U.S.C. 1189(a), any U.S. financial institution that becomes aware that it has possession of or control over any funds in which the designated foreign terrorist organization or its agent has an interest shall:

(1) Retain possession of or maintain control over such funds; and

(2) Report to the Secretary of the Treasury the existence of such funds in accordance with § 501.603 of this chapter.

(c) Publication in the Federal Register of the designation of an organization as a foreign terrorist organization pursuant to 8 U.S.C. 1189(a) shall be deemed to constitute a further directive from the Secretary of the Treasury for purposes of paragraph (a) of this section, and shall require the actions contained in paragraph (b) of this section.

(d) The requirements of paragraph (b) of this section shall remain in effect until the effective date of an administrative, judicial, or legislative revocation of the designation of an organization as a foreign terrorist organization, or until the designation lapses, pursuant to 8 U.S.C. 1189.

(e) When a transaction results in the blocking of funds at a financial institution pursuant to this section and a party to the transaction believes the funds have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the administrative procedures set forth in § 501.806 of this chapter. Requests for the unblocking of funds pursuant to § 501.806 must be submitted to the attention of the Compliance Programs Division.

§ 597.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date which is in violation of § 597.201 or any other provision of this part or of any regulation, order, directive, ruling, instruction, license, or other authorization hereunder and involves any funds or assets held in the name of a foreign terrorist organization or its agent or in which a foreign terrorist organization or its agent has or has had an interest since such date, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such funds or assets.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any funds or assets held in the name of a foreign terrorist organization or its agent or in which a foreign terrorist organization or its agent has an interest, or has had an interest since such date, unless the financial institution with whom such funds or assets are held or maintained, prior to such date,

had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or render it enforceable to the same extent that it would be valid or enforceable but for the provisions of this part, and any regulation, order, directive, ruling, instruction, or license issued hereunder.

(d) Transfers of funds or assets which otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any financial institution with whom such funds or assets were held or maintained (and as to such financial institution only) in cases in which such financial institution is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the financial institution with whom such funds or assets were held or maintained;

(2) The financial institution with which such funds or assets were held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such institution, that such transfer required a license or authorization by or pursuant to this part and was not so licensed or authorized, or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained; and

(3) The financial institution with which such funds or assets were held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization hereunder; or

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (d): The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(e) Except for exercises of judicial authority pursuant to 8 U.S.C. 1189(b), unless licensed or authorized pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any funds or assets which, on or since the effective date, were in the possession or control of a U.S. financial institution and were held in the name of a

foreign terrorist organization or its agent or in which there existed an interest of a foreign terrorist organization or its agent.

§ 597.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. financial institution holding funds subject to § 597.201(b) shall hold or place such funds in a blocked interest-bearing account which is in the name of the foreign terrorist organization or its agent and which is located in the United States.

(b)(1) For purposes of this section, the term *interest-bearing account* means a blocked account:

(i) in a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates which are commercially reasonable for the amount of funds in the account or certificate of deposit; or

(ii) with a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, provided the funds are invested in a money market fund or in U.S. Treasury Bills.

(2) Funds held or placed in a blocked interest-bearing account pursuant to this paragraph may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or sub-account, the name of the account party on each account must be the same and must clearly indicate the foreign terrorist organization or agent having an interest in the accounts.

(c) Blocked funds held as of the effective date in the form of stocks, bonds, debentures, letters of credit, or instruments which cannot be negotiated for the purpose of placing the funds in a blocked interest-bearing account pursuant to paragraph (a) may continue to be held in the form of the existing security or instrument until liquidation or maturity, provided that any dividends, interest income, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with the requirements of this section.

(d) Funds subject to this section may not be held, invested, or reinvested in a manner in which an immediate financial or economic benefit or access accrues to the foreign terrorist organization or its agent.

§ 597.204 Evasions; attempts; conspiracies.

Any transaction for the purpose of, or which has the effect of, evading or avoiding, or which facilitates the evasion or avoidance of, any of the prohibitions set forth in this part, is hereby prohibited. Any attempt to violate the prohibitions set forth in this part is hereby prohibited. Any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is hereby prohibited.

Subpart C—General Definitions

§ 597.301 Agent.

(a) The term *agent* means:

(1) Any person owned or controlled by a foreign terrorist organization; or

(2) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the effective date, acting or purporting to act directly or indirectly on behalf of a foreign terrorist organization.

(b) The term *agent* includes, but is not limited to, any person determined by the Director of the Office of Foreign Assets Control to be an agent as defined in paragraph (a) of this section.

Note to § 597.301: Please refer to the appendices at the end of this chapter for listings of persons designated as foreign terrorist organizations or their agents. Section 501.807 of this chapter sets forth the procedures to be followed by a person seeking administrative reconsideration of a designation as an agent, or who wishes to assert that the circumstances resulting in the designation as an agent are no longer applicable.

§ 597.302 Assets.

The term *assets* includes, but is not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 597.303 Blocked account; blocked funds.

The terms *blocked account* and *blocked funds* shall mean any account or funds subject to the prohibitions in § 597.201 held in the name of a foreign terrorist organization or its agent or in which a foreign terrorist organization or its agent has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control authorizing such action.

§ 597.304 Designation.

The term *designation* includes both the designation and redesignation of a foreign terrorist organization pursuant to 8 U.S.C. 1189.

§ 597.305 Effective date.

Except as that term is used in § 597.201(d), the term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part which is October 6, 1997, or, in the case of foreign terrorist organizations designated after that date and their agents, the earlier of the date on which a financial institution receives actual or constructive notice of such designation or of the Secretary of Treasury's exercise of his authority to block financial transactions pursuant to 8 U.S.C. 1189(a)(2)(C) and § 597.201(a).

§ 597.306 Entity.

The term *entity* includes a partnership, association, corporation, or other organization, group, or subgroup.

§ 597.307 Financial institution.

The term *financial institution* shall have the definition given that term in 31 U.S.C. 5312(a)(2) as from time to time amended, notwithstanding the definition of that term in 31 CFR part 103.

Note: The breadth of the statutory definition of *financial institution* precludes its reproduction in this section. Among the types of businesses covered are insured banks (as defined in 12 U.S.C. 1813(h)), commercial banks or trust companies, private bankers, agencies or branches of a foreign bank in the United States, insured institutions (as defined in 12 U.S.C. 1724(a)), thrift institutions, brokers or dealers registered with the Securities and Exchange Commission under 15 U.S.C. 78a et seq., securities or commodities brokers and dealers, investment bankers or investment companies, currency exchanges, issuers, redeemers, or cashiers of traveler's checks, checks, money orders, or similar instruments, credit card system operators, insurance companies, dealers in precious metals, stones or jewels, pawnbrokers, loan or finance companies, travel agencies, licensed senders of money, telegraph companies, businesses engaged in vehicle sales, including automobile, airplane or boat sales, persons involved in real estate closings and settlements, the United States Postal Service, a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than $1,000,000 as further described in 31 U.S.C. 5312(a)(2), or agencies of the United States Government or of a State or local government carrying out a duty or power of any of the businesses described in 31 U.S.C. 5312(a)(2).

§ 597.308 Financial transaction.

The term *financial transaction* means a transaction involving the transfer or movement of funds, whether by wire or other means.

§ 597.309 Foreign terrorist organization.

The term *foreign terrorist organization* means an organization designated or redesignated as a foreign terrorist organization, or with respect to which the Secretary of State has notified Congress of the intention to designate as a foreign terrorist organization, under 8 U.S.C. 1189(a).

§ 597.310 Funds.

The term *funds* includes coin or currency of the United States or any other country, traveler's checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable instrument, and any electronic representation of any of the foregoing. An electronic representation of any of the foregoing includes any form of digital or electronic cash, coin, or currency in use currently or placed in use in the future.

§ 597.311 General license.

The term *general license* means any license or authorization the terms of which are set forth in this part.

§ 597.312 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to funds or assets (e.g., "an interest in funds") means an interest of any nature whatsoever, direct or indirect.

§ 597.313 License.

Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

§ 597.314 Person.

The term *person* means an individual or entity.

§ 597.315 Specific license.

The term *specific license* means any license or authorization not set forth in this part but issued pursuant to this part.

§ 597.316 Transaction.

The term *transaction* shall have the meaning set forth in 18 U.S.C. 1956(c)(3), as from time to time amended. As of the effective date, this term includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition of any asset, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

§ 597.317 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fidu-

ciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 597.318 United States.

The term *United States* means the United States, its territories, states, commonwealths, districts, and possessions, and all areas under the jurisdiction or authority thereof.

§ 597.319 U.S. financial institution.

The term *U.S. financial institution* means:

(a) Any financial institution organized under the laws of the United States, including such financial institution's foreign branches;

(b) Any financial institution operating or doing business in the United States; or

(c) Those branches, offices and agencies of foreign financial institutions which are located in the United States, but not such foreign financial institutions' other foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 597.401 Reference to amended sections.

Except as otherwise specified, reference to any section of this part or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part shall be deemed to refer to the same as currently amended.

§ 597.402 Effect of amendment.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control shall not, unless otherwise specifically provided, be deemed to affect any act done or omitted to be done, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 597.403 Termination and acquisition of an interest in blocked funds.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of funds (including any interest in funds) away from a foreign terrorist organization or its agent, such funds shall no longer be deemed to be funds in which the foreign terrorist organization or its agent has or has had an interest,

or which are held in the name of a foreign terrorist organization or its agent, unless there exists in the funds another interest of a foreign terrorist organization or its agent, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if funds (including any interest in funds) are or at any time since the effective date have been held by a foreign terrorist organization or its agent, or at any time thereafter are transferred or attempted to be transferred to a foreign terrorist organization or its agent, including by the making of any contribution to or for the benefit of a foreign terrorist organization or its agent, such funds shall be deemed to be funds in which there exists an interest of the foreign terrorist organization or its agent.

§ 597.404 Setoffs prohibited.

A setoff against blocked funds (including a blocked account) by a U.S. financial institution is a prohibited transaction under § 597.201 if effected after the effective date.

§ 597.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except a transaction by an unlicensed, foreign terrorist organization or its agent or involving a debit to a blocked account or a transfer of blocked funds not explicitly authorized within the terms of the license.

§ 597.406 Offshore transactions.

The prohibitions contained in § 597.201 apply to transactions by U.S. financial institutions in locations outside the United States with respect to funds or assets which the U.S. financial institution knows, or becomes aware, are held in the name of a foreign terrorist organization or its agent, or in which the U.S. financial institution knows, or becomes aware that, a foreign terrorist organization or its agent has or has had an interest since the effective date.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 597.501 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, shall be deemed to authorize or validate any transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 597.502 Exclusion from licenses and authorizations.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license, or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons, property, transactions, or classes thereof. Such action shall be binding upon all persons receiving actual or constructive notice of such exclusion or restriction.

§ 597.503 Payments and transfers to blocked accounts in U.S. financial institutions.

(a) Any payment of funds or transfer of credit or other financial or economic resources or assets by a financial institution into a blocked account in a U.S. financial institution is authorized, provided that a transfer from a blocked account pursuant to this authorization may only be made to another blocked account held in the same name on the books of the same U.S. financial institution.

(b) This section does not authorize any transfer from a blocked account within the United States to an account held outside the United States.

Note to § 597.503: Please refer to §§ 501.603 and 597.601 of this chapter for mandatory reporting requirements regarding financial transfers.

§ 597.504 Entries in certain accounts for normal service charges authorized.

(a) U.S. financial institutions are hereby authorized to debit any blocked account with such U.S. financial institution in payment or reimbursement for normal service charges owed to such U.S. financial institution by the owner of such blocked account.

(b) As used in this section, the term normal service charge shall include charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photostats, credit reports, transcripts of statements, registered mail insurance, stationery and supplies, check books, and other similar items.

§ 597.505 Payment for certain legal services.

Specific licenses may be issued, on a case-by-case basis, authorizing receipt of payment of professional fees and reimbursement of incurred expenses through a U.S. financial institution for the following legal services by U.S. persons:

(a) Provision of legal advice and counseling to a foreign terrorist organization or an agent thereof on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling is not provided to facilitate transactions in violation of any of the prohibitions of this part;

(b) Representation of a foreign terrorist organization or an agent thereof when named as a defendant in or otherwise made a party to domestic U.S. legal, arbitration, or administrative proceedings;

(c) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings on behalf of a foreign terrorist organization or an agent thereof;

(d) Representation of a foreign terrorist organization or an agent thereof before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against a foreign terrorist organization or an agent thereof;

(e) Provision of legal services to a foreign terrorist organization or an agent thereof in any other context in which prevailing U.S. law requires access to legal counsel at public expense; and

(f) Representation of a foreign terrorist organization seeking judicial review of a designation before the United States Court of Appeals for the District of Columbia Circuit pursuant to 8 U.S.C. 1189(b)(1).

Subpart F—Reports

§ 597.601 Records and reports.

For provisions relating to records and reports, see subpart C of part 501 of this chapter; provided, however, that all of the powers afforded the Director pursuant to the first 3 sentences of § 501.602 of this chapter may also be exercised by the Attorney General in conducting administrative investigations pursuant to 18 U.S.C. 2339B(e); provided further, that the investigative authority of the Director pursuant to § 501.602 of this chapter shall be exercised in accordance with 18 U.S.C. 2339B(e); and provided further, that for purposes of this part no person other than a U.S. financial institution and its directors, officers, employees, and agents shall be required to maintain records or to file any reports or furnish any information under §§ 501.601, 501.602, or 501.603 of this chapter.

Subpart G—Penalties

§ 597.701 Penalties.

(a) Attention is directed to 18 U.S.C. 2339B(a)(1), as added by Public Law 104–132, 110 Stat. 1250–1253, section 303, which provides that whoever, within the United States or subject to the jurisdiction of the United States, knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so, shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

(b) Attention is directed to 18 U.S.C. 2339B(b), as added by Public Law 104–132, 110 Stat. 1250–1253, section 303, which provides that, except as authorized by the Secretary of the Treasury, any financial institution that knowingly fails to retain possession of or maintain control over funds in which a foreign terrorist organization or its agent has an interest, or to report the existence of such funds in accordance with these regulations, shall be subject to a civil penalty in an amount that is the greater of $50,000 per violation, or twice the amount of which the financial institution was required to retain possession or control.

(c) Attention is directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any materially false, fictitious or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

(d) Conduct covered by this part may also be subject to relevant provisions of other applicable laws.

§ 597.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part, and the Director, acting in coordination with the Attorney General, determines that civil penalty proceedings are warranted, the Director shall issue to the person concerned a notice of intent to impose a monetary penalty. The prepenalty notice shall be issued whether or not another agency has taken any action with respect to this matter.

(b) *Contents.*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of respondent's right to respond within 30 days of mailing of the notice as to why a monetary penalty should not be imposed, or, if imposed, why it should be in a lesser amount than proposed.

§ 597.703 Response to prepenalty notice.

(a) *Time within which to respond.* The respondent shall have 30 days from the date of mailing of the prepenalty notice to respond in writing to the Director of the Office of Foreign Assets Control.

(b) *Form and contents of written response.* The written response need not be in any particular form, but shall contain information sufficient to indicate that it is in response to the prepenalty notice. It should respond to the allegations in the prepenalty notice and set forth the reasons why the respondent believes the penalty

should not be imposed or, if imposed, why it should be in a lesser amount than proposed.

(c) *Informal settlement.* In addition or as an alternative to a written response to a prepenalty notice pursuant to this section, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. In the event of settlement at the prepenalty stage, the prepenalty notice will be withdrawn, the respondent is not required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the 30–day period specified in paragraph (a) of this section for written response to the prepenalty notice remains in effect unless additional time is granted by the Office of Foreign Assets Control.

§ 597.704 Penalty notice.

(a) *No violation.* If, after considering any written response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent, the Director promptly shall notify the respondent in writing of that determination and that no monetary penalty will be imposed.

(b) *Violation.* (1) If, after considering any written response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent, the Director promptly shall issue a written notice of the imposition of the monetary penalty on the respondent. The issuance of a written notice of the imposition of a monetary penalty shall constitute final agency action.

(2) The penalty notice shall inform the respondent that payment of the assessed penalty must be made within 30 days of the mailing of the penalty notice.

(3) The penalty notice shall inform the respondent of the requirement to furnish respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that the Department intends to use such number for the purposes of collecting and reporting on any delinquent penalty amount in the event of a failure to pay the penalty imposed.

§ 597.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the mailing of the written notice of the imposition of the penalty, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 597.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see subpart D of part 501 of this chapter.

§ 597.802 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to 8 U.S.C. 1189 or 18 U.S.C. 2339B, as added by Public Law 104–132, 110 Stat. 1248-1253, sections 302 and 303, may be taken by the Director of the Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 597.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act of information collections relating to recordkeeping and reporting requirements, to licensing procedures (including those pursuant to statements of licensing policy), and to other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

3. Federal Aviation Administration

a. Airport Security

Federal Aviation Administration Regulations, 14 CFR Part 107

PART 107—AIRPORT SECURITY

§ 107.1 Applicability and definitions.

(a) This part prescribes aviation security rules governing—

(1) The operation of each airport regularly serving the scheduled passenger operations of a certificate holder required to have a security program by § 108.5(a) of this chapter;

(2) The operation of each airport regularly serving scheduled passenger operations of a foreign air carrier required to have a security program by § 129.25 of this chapter; and

(3) Each person who is in or entering a sterile area on an airport described in paragraph (a)(1) or (a)(2) of this section.

(b) For purposes of this part—

(1) *Airport operator* means a person who operates an airport regularly serving scheduled passenger operations of a certificate holder or a foreign air carrier required to have a security program by § 108.5(a) or § 129.25 of this chapter;

(2) *Air Operations Area* means a portion of an airport designed and used for landing, taking off, or surface maneuvering of airplanes;

(3) *Exclusive area* means that part of an air operations area for which an air carrier has agreed in writing with the airport operator to exercise exclusive security responsibility under an approved security program or a security program used in accordance with § 129.25;

(4) *Law enforcement officer* means an individual who meets the requirements of § 107.17; and

(5) *Sterile area* means an area to which access is controlled by the inspection of persons and property in accordance with an approved security program or a security program used in accordance with § 129.25.

§ 107.3 Security program

(a) No airport operator may operate an airport subject to this part unless it adopts and carries out a security program that—

(1) Provides for the safety of persons and property traveling in air transportation and intrastate air transportation against acts of criminal violence and aircraft piracy;

(2) Is in writing and signed by the airport operator or any person to whom the airport operator has delegated authority in this matter;

(3) Includes the items listed in paragraph (b), (f), or (g) of this section, as appropriate; and

(4) Has been approved by the Director of Civil Aviation Security.

(b) For each airport subject to this part regularly serving scheduled passenger operations conducted in airplanes having a passenger seating configuration (as defined in § 108.3 of this section of this chapter) of more than 60 seats, the security program required by paragraph (a) of this section must include at least the following:

(1) A description of each air operations area, including its dimensions, boundaries, and pertinent features.

(2) A description of each area on or adjacent to, the airport which affects the security of any air operations area.

(3) A description of each exclusive area, including its dimensions, boundaries, and pertinent features, and the terms of the agreement establishing the area.

(4) The procedures, and a description of the facilities and equipment, used to perform the control functions specified in § 107.13(a) by the airport operator and by each air carrier having security responsibility over an exclusive area.

(5) The procedures each air carrier having security responsibility over an exclusive area will use to notify the airport operator when the procedures, facilities, and equipment it uses are not adequate to perform the control functions described in § 107.13(a).

(6) A description of the alternate security procedures, if any, that the airport operator intends to use in emergencies and other unusual conditions.

(7) A description of the law enforcement support necessary to comply with § 107.15.

(8) A description of the training program for law enforcement officers required by § 107.17.

(9) A description of the system for maintaining the records described in § 107.23.

(c) The airport operator may comply with paragraph (b), (f), or (g) of this section by including in the security program as an appendix any document which contains the information required by paragraph (b), (f), or (g) of this section.

(d) Each airport operator shall maintain at least one complete copy of its approved security program at its principal operations office, and shall make it available for inspection upon the request of any Civil Aviation Security Special Agent.

(e) Each airport operator shall restrict the distribution, disclosure, and availability of information contained in the security program to those persons with an operational need-to-know and shall refer requests for such information by other than those persons to the Director of Civil Aviation Security of the FAA.

(f) For each airport subject to this part regularly serving scheduled passenger operations conducted in airplanes having a passenger seating configuration (as defined in § 10.3 of this chapter) of more than 30 but less than 61 seats, the security program required by paragraph (a) of this section must include at least the following:

(1) A description of the law enforcement support necessary to comply with § 107.15(b), and the procedures which the airport operator has arranged to be used by the certificate holder or foreign air carrier to summon that support.

(2) A description of the training program for law enforcement officers required by § 107.17.

(3) A description of the system for maintaining the records described in § 107.23.

(g) For each airport subject to this part where the certificate holder or foreign air carrier is required to conduct passenger screening under a security program required by § 108.5(a) (2) or (3) or § 129.25(b) (2) or (3) of this chapter, or conducts screening under a security program being carried out pursuant to § 108.5(b), as appropriate, the security program required by paragraph (a) of this section must include at least the following:

(1) A description of the law enforcement support necessary to comply with § 107.15.

(2) A description of the training program for law enforcement officers required by § 107.17.

(3) A description of the system for maintaining the records described in § 107.23.

§ 107.5 Approval of security program

(a) Unless a shorter period is allowed by the Director of Civil Aviation Security, each airport operator seeking initial approval of a security program for an airport subject to this part shall submit the proposed program to the Director of Civil Aviation Security at least 90 days before any scheduled passenger operations are expected to begin by any certificate holder or permit holder to whom § 121.538 or § 129.25 of this chapter applies.

(b) Within 30 days after receipt of a proposed security program, the Director of Civil Aviation Security either approves the program or gives the airport operator written notice to modify the program to make it conform to the applicable requirements of this part.

(c) After receipt of a notice to modify, the airport operator may either submit a modified security program or petition the Administrator to reconsider the notice to modify. A petition for reconsideration must be filed with the Director of Civil Aviation Security.

(d) Upon receipt of a petition for reconsideration, the Director of Civil Aviation Security reconsiders the notice to modify and either amends or withdraws the notice or transmits the petition, together with any pertinent information, to the Administrator for consideration.

(e) After review of a petition for reconsideration, the Administrator disposes of the petition by either directing the Director of Civil Aviation Security to withdraw or amend the notice to modify, or by affirming the notice to modify.

§ 107.7 Changed conditions affecting security

(a) After approval of the security program, the airport operator shall follow the procedures prescribed in paragraph (b) of this section whenever it determines that any of the following changed conditions has occurred:

(1) Any description of an airport area set out in the security program in accordance with § 107.3(b) (1), (2), or (3) is no longer accurate.

(2) The procedures included, and the facilities and equipment described, in the security program in accordance with § 107.3(b) (4)

and (5) are not adequate for the control functions described in § 107.13(a).

(3) The airport operator changes any alternate security procedures described in the security program in accordance with § 107.3(b)(6).

(4) The law enforcement support described in the security program in accordance with § 107.3 (b)(7), (f)(1), or (g)(1) is not adequate to comply with § 107.15.

(5) Any changes to the designation of the Airport Security Coordinator (ASC) required under § 107.29.

(b) Whenever a changed condition described in paragraph (a) of this section occurs, the airport operator shall—

(1) Immediately notify the FAA security office having jurisdiction over the airport of the changed condition, and identify each interim measure being taken to maintain adequate security until an appropriate amendment to the security program is approved; and

(2) Within 30 days after notifying the FAA in accordance with paragraph (b)(1) of this section, submit for approval in accordance with § 107.9 an amendment to the security program to bring it into compliance with this part.

§ 107.9 Amendment of security program by airport operator

(a) An airport operator requesting approval of a proposed amendment to the security program shall submit the request to the Director of Civil Aviation Security. Unless a shorter period is allowed by the Director of Civil Aviation Security, the request must be submitted at least 30 days before the proposed effective date.

(b) Within 15 days after receipt of a proposed amendment, the Director of Civil Aviation Security issues to the airport operator, in writing, either an approval or a denial of the request.

(c) An amendment to a security program is approved if the Director of Civil Aviation Security determines that—

(1) Safety and the public interest will allow it, and

(2) The proposed amendment provides the level of security required by § 107.3.

(d) After denial of a request for an amendment the airport operator may petition the Administrator to reconsider the denial. A petition for reconsideration must be filed with the Director of Civil Aviation Security.

(e) Upon receipt of a petition for reconsideration the Director of Civil Aviation Security reconsiders the denial and either approves the proposed amendment or transmits the petition, together with any pertinent information, to the Administrator for consideration.

(f) After review of a petition for reconsideration, the Administrator disposes of the petition by either directing the Director of Civil Aviation Security to approve the proposed amendment or affirming the denial.

§ 107.11 Amendment of security program by FAA

(a) The Administrator or Director of Civil Aviation Security may amend an approved security program for an airport, if it is determined that safety and the public interest require the amendment.

(b) Except in an emergency as provided in paragraph (f) of this section, when the Administrator or the Director of Civil Aviation

Security proposes to amend a security program, a notice of the proposed amendment is issued to the airport operator, in writing, fixing a period of not less than 30 days within which the airport operator may submit written information, views, and arguments on the amendment. After considering all relevant material, including that submitted by the airport operator, the Administrator or the Director of Civil Aviation Security either rescinds the notice or notifies the airport operator in writing of any amendment adopted, specifying an effective date not less than 30 days after receipt of the notice of amendment by the airport operator.

(c) After receipt of a notice of amendment from a Director of Civil Aviation Security, the airport operator may petition the Administrator to reconsider the amendment. A petition for reconsideration must be filed with the Director of Civil Aviation Security. Except in an emergency as provided in paragraph (f) of this section, a petition for reconsideration stays the amendment until the Administrator takes final action on the petition.

(d) Upon receipt of a petition for reconsideration, the Director of Civil Aviation Security reconsiders the amendment and either rescinds or modifies the amendment or transmits the petition, together with any pertinent information, to the Administrator for consideration.

(e) After review of a petition for reconsideration, the Administrator disposes of the petition by directing the Director of Civil Aviation Security to rescind the notice of amendment or to issue the amendment as proposed or in modified form.

(f) If the Administrator or the Director of Civil Aviation Security finds that there is an emergency requiring immediate action that makes the procedure in paragraph (b) of this section impracticable or contrary to the public interest, an amendment may be issued effective without stay on the date the airport operator receives notice of it. In such a case, the Administrator or the Director of Civil Aviation Security incorporates in the notice of the amendment the finding, including a brief statement of the reasons for the emergency and the need for emergency action.

§ 107.13 Security of air operations area

(a) Except as provided in paragraph (b) of this section, each operator of an airport serving scheduled passenger operations where the certificate holder or foreign air carrier is required to conduct passenger screening under a program required by § 108.5(a)(1) or § 129.25(b)(1) of this chapter as appropriate shall use the procedures included, and the facilities and equipment described, in its approved security program, to perform the following control functions:

(1) Controlling access to each air operations area, including methods for preventing the entry of unauthorized persons and ground vehicles.

(2) Controlling movement of persons and ground vehicles within each air operations area, including, when appropriate, requirements for the display of identification.

(3) Promptly detecting and taking action to control each penetration, or attempted penetration, of an air operations area by a per-

son whose entry is not authorized in accordance with the security program.

(b) An airport operator need not comply with paragraph (a) of this section with respect to an air carrier's exclusive area, if the airport operator's security program contains—

(1) Procedures, and a description of the facilities and equipment, used by the air carrier to perform the control functions described in paragraph (a) of this section; and

(2) Procedures by which the air carrier will notify the airport operator when its procedures, facilities, and equipment are not adequate to perform the control functions described in paragraph (a) of this section.

§ 107.14 Access control system

(a) Except as provided in paragraph (b) of this section, each operator of an airport regularly serving scheduled passenger operations conducted in airplanes having a passenger seating configuration (as defined in § 108.3 of this chapter) of more than 60 seats shall submit to the Director of Civil Aviation Security, for approval and inclusion in its approved security program, an amendment to provide for a system, method, or procedure which meets the requirements specified in this paragraph for controlling access to secured areas of the airport. The system, method, or procedure shall ensure that only those persons authorized to have access to secured areas by the airport operator's security program are able to obtain that access and shall specifically provide a means to ensure that such access is denied immediately at the access point or points to individuals whose authority to have access changes. The system, method, or procedure shall provide a means to differentiate between persons authorized to have access to only a particular portion of the secured areas and persons authorized to have access only to other portions or to the entire secured area. The system, method, or procedure shall be capable of limiting an individual's access by time and date.

(b) The Director of Civil Aviation Security will approve an amendment to an airport operator's security program that provides for the use of an alternative system, method, or procedure if, in the Director's judgment, the alternative would provide an overall level of security equal to that which would be provided by the system, method, or procedure described in paragraph (a) of this section.

(c) Each airport operator shall submit the amendment to its approved security program required by paragraph (a) or (b) of this section according to the following schedule:

(1) By August 8, 1989, or by 6 months after becoming subject to this section, whichever is later, for airports where at least 25 million persons are screened annually or airports that have been designated by the Director of Civil Aviation Security. The amendment shall specify that the system, method, or procedure must be fully operational within 18 months after the date on which an airport operator's amendment to its approved security program is approved by the Director of Civil Aviation Security.

(2) By August 8, 1989, or by 6 months after becoming subject to this section, whichever is later, for airports where more than 2 million persons are screened annually. The amendment shall specify

that the system, method, or procedure must be fully operational within 24 months after the date on which an airport operator's amendment to its approved security program is approved by the Director of Civil Aviation Security.

(3) By February 8, 1990, or by 12 months after becoming subject to this section, whichever is later, for airports where at least 500,000 but not more than 2 million persons are screened annually. The amendment shall specify that the system, method, or procedure must be fully operational within 30 months after the date on which an airport operator's amendment to its approved security program is approved by the Director of Civil Aviation Security.

(4) By February 8, 1990, or by 12 months after becoming subject to this section, whichever is later, for airports where less than 500,000 persons are screened annually. The amendment shall specify that the system, method, or procedure must be fully operational within 30 months after the date on which an airport operator's amendment to its approved security program is approved by the Director of Civil Aviation Security.

(d) Notwithstanding paragraph (c) of this section, an airport operator of a newly constructed airport commencing initial operation after December 31, 1990, as an airport subject to paragraph (a) of this section, shall include as part of its original airport security program to be submitted to the FAA for approval a fully operational system, method, or procedure in accordance with this section.

§ 107.15 Law enforcement support

(a) Each airport operator shall provide law enforcement officers in the number and in a manner adequate to support—

(1) Its security program; and

(2) Each passenger screening system required by part 108 or § 129.25 of this chapter.

(b) For scheduled or public charter passenger operations with airplanes having a passenger seating configuration (as defined in § 108.3 of this chapter) of more than 30 but less than 61 seats for which a passenger screening system is not required, each airport operator shall ensure that law enforcement officers are available and committed to respond to an incident at the request of a certificate holder or foreign air carrier and shall ensure that the request procedures are provided to the certificate holder or foreign air carrier.

§ 107.17 Law enforcement officers

(a) No airport operator may use, or arrange for response by, any person as a required law enforcement officer unless, while on duty on the airport, the officer—

(1) Has the arrest, authority described in paragraph (b) of this section;

(2) Is readily identifiable by uniform and displays or carries a badge or other indicia of authority;

(3) Is armed with a firearm and authorized to use it; and

(4) Has completed a training program that meets the requirements in paragraph (c) of this section.

(b) The law enforcement officer must, while on duty on the airport, have the authority to arrest, with or without a warrant, for the following violations of the criminal laws of the State and local jurisdictions in which the airport is located:

(1) A crime committed in the officer's presence.

(2) A felony, when the officer has reason to believe that the suspect has committed it.

(c) The training program required by paragraph (a)(4) of this section must provide training in the subjects specified in paragraph (d) of this section and either—

(1) Meet the training standards, if any, prescribed by either the State or the local jurisdiction in which the airport is located, for law enforcement officers performing comparable functions; or

(2) If the State and local jurisdictions in which the airport is located do not prescribe training standards for officers performing comparable functions, be acceptable to the Administrator.

(d) The training program required by paragraph (a)(4) of this section must include training in—

(1) The use of firearms;

(2) The courteous and efficient treatment of persons subject to inspection, detention, search, arrest, and other aviation security activities;

(3) The responsibilities of a law enforcement officer under the airport operator's approved security program; and

(4) Any other subject the Administrator determines is necessary.

§ 107.19 Use of federal law enforcement officers

(a) Whenever State, local, and private law enforcement officers who meet the requirements of § 107.17 are not available in sufficient numbers to meet the requirements of § 107.15, the airport operator may request that the Administrator authorize it to use Federal law enforcement officers.

(b) Each request for the use of Federal law enforcement officers must be accompanied by the following information:

(1) The number of passengers enplaned at the airport during the preceding calendar year and the current calendar year as of the date of the request.

(2) The anticipated risk of criminal violence and aircraft piracy at the airport and to the air carrier aircraft operations at the airport.

(3) A copy of that portion of the airport operator's security program which describes the law enforcement support necessary to comply with § 107.15.

(4) The availability of State, local, and private law enforcement officers who meet the requirements of § 107.17, including a description of the airport operator's efforts to obtain law enforcement support from State, local, and private agencies and the responses of those agencies.

(5) The airport operator's estimate of the number of Federal law enforcement officers needed to supplement available officers and the period of time for which they are needed.

(6) A statement acknowledging responsibility for providing reimbursement for the cost of providing Federal law enforcement officers.

(7) Any other information the Administrator considers necessary.

(c) In response to a request submitted in accordance with this section, the Administrator may authorize, on a reimbursable basis, the use of law enforcement officers employed by the FAA or by any other Federal agency, with the consent of the head of that agency.

§ 107.20 Submission to screening

No person may enter a sterile area without submitting to the screening of his or her person and property in accordance with the procedures being applied to control access to that area under § 108.9 or § 129.25 of this chapter.

§ 107.21 Carriage of an explosive, incendiary, or deadly or dangerous weapon

(a) Except as provided in paragraph (b) of this section, no person may have an explosive, incendiary, or deadly or dangerous weapon on or about the individual's person or accessible property—

(1) When performance has begun of the inspection of the individual's person or accessible property before entering a sterile area; and

(2) When entering or in a sterile area.

(b) The provisions of this section with respect to firearms do not apply to the following:

(1) Law enforcement officers required to carry a firearm by this part while on duty on the airport.

(2) Persons authorized to carry a firearm in accordance with § 108.11 or § 129.27.

(3) Persons authorized to carry a firearm in a sterile area under an approved security program or a security program used in accordance with § 129.25.

§ 107.23 Records

(a) Each airport operator shall ensure that—

(1) A record is made of each law enforcement action taken in furtherance of this part;

(2) The record is maintained for a minimum of 90 days; and

(3) It is made available to the administrator upon request.

(b) Data developed in response to paragraph (a) of this section must include at least the following:

(1) The number and type of firearms, explosives, and incendiaries discovered during any passenger screening process, and the method of detection of each.

(2) The number of acts and attempted acts of air piracy.

(3) The number of bomb threats received, real and simulated bombs found, and actual bombings on the airport.

(4) The number of detentions and arrests, and the immediate disposition of each person detained or arrested.

§ 107.25 Airport identification media

(a) As used in this section, *security identification display area* means any area identified in the airport security program as requiring each person to continuously display on their outermost garment, an airport-approved identification medium unless under airport-approved escort.

(b) After January 1, 1992, an airport operator may not issue to any person any identification media that provides unescorted access to any security identification display area unless the person has successfully completed training in accordance with an FAA-approved curriculum specified in the security program.

(c) By October 1, 1992, not less than 50 percent of all individuals possessing airport-issued identification that provides unescorted access to any security identification display area at that airport shall have been trained in accordance with an FAA-approved curriculum specified in the security program.

(d) After May 1, 1993, an airport operator may not permit any person to possess any airport-issued identification medium that provides unescorted access to any security identification display area at that airport unless the person has successfully completed FAA-approved training in accordance with a curriculum specified in the security program.

(e) The curriculum specified in the security program shall detail the methods of instruction, provide attendees the opportunity to ask questions, and include at least the following topics:

(1) Control, use, and display of airport-approved identification or access media;

(2) Challenge procedures and the law enforcement response which supports the challenge procedure;

(3) Restrictions on divulging information concerning an act of unlawful interference with civil aviation if such information is likely to jeopardize the safety of domestic or international aviation;

(4) Non-disclosure of information regarding the airport security system or any airport tenant's security systems; and

(5) Any other topics deemed necessary by the Assistant Administrator for Civil Aviation Security.

(f) No person may use any airport-approved identification medium that provides unescorted access to any security identification display area to gain such access unless that medium was issued to that person by the appropriate airport authority or other entity whose identification is approved by the airport operator.

(g) The airport operator shall maintain a record of all training given to each person under this section until 180 days after the termination of that person's unescorted access privileges.

§ 107.27 Evidence of compliance

On request of the Assistant Administrator for Civil Aviation Security, each airport operator shall provide evidence of compliance with this part and its approved security program.

§ 107.29 Airport security coordinator

Each airport operator shall designate an Airport Security Coordinator (ASC) in its security program. The designation shall include the name of the ASC, and a description of the means by which to contact the ASC on a 24-hour basis. The ASC shall serve as the airport operator's primary contact for security-related activities and communications with FAA, as set forth in the security program.

§ 107.31 Employment history, verification and criminal history records checks.

(a) SCOPE. On or after January 31, 1996, this section applies to all airport operators; airport users; individuals currently having unescorted access to a security identification display area (SIDA) that is identified by Sec. 107.25; all individuals seeking authorization for, or seeking the authority to authorize others to have, unescorted access to the SIDA; and each airport user and air carrier making a certification to an airport operator pursuant to paragraph (n) of this section. An airport user, for the purposes of Sec. 107.31 only, is any person making a certification under this section other than an air carrier subject to Sec. 108.33.

(b) EMPLOYMENT HISTORY INVESTIGATIONS REQUIRED. Except as provided in paragraph (m) of this section, each airport operator must ensure that no individual is granted authorization for, or is granted authority to authorize others to have, unescorted access to the SIDA unless the following requirements are met:

(1) The individual has satisfactorily undergone Part 1 of an employment history investigation. Part 1 consists of a review of the previous 10 years of employment history and verification of the 5 employment years preceding the date the appropriate investigation is initiated as provided in paragraph (c) of this section; and

(2) If required by paragraph (c)(5) of this section, the individual has satisfied Part 2 of the employment history investigation. Part 2 is the process to determine if the individual has a criminal record. To satisfy Part 2 of the investigation the criminal record check must not disclose that the individual has been convicted or found not guilty by reason of insanity, in any jurisdiction, during the 10 years ending on the date of such investigation, of any of the crimes listed below:

(i) Forgery of certificates, false marking of aircraft, and other aircraft registration violation, 49 U.S.C. 46306;

(ii) Interference with air navigation, 49 U.S.C. 46308;

(iii) Improper transportation of a hazardous material, 49 U.S.C. 46312;

(iv) Aircraft piracy, 49 U.S.C. 46502;

(v) Interference with flightcrew members or flight attendants, 49 U.S.C. 46504;

(vi) Commission of certain crimes aboard aircraft in flight, 49 U.S.C. 46506;

(vii) Carrying a weapon or explosive aboard aircraft, 49 U.S.C. 46505;

(viii) Conveying false information and threats, 49 U.S.C. 46507;

(ix) Aircraft piracy outside the special aircraft jurisdiction of the United States, 49 U.S.C. 46502(b);

(x) Lighting violations involving transporting controlled substances, 49 U.S.C. 46315;

(xi) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements, 49 U.S.C. 46314;

(xii) Destruction of an aircraft or aircraft facility, 18 U.S.C. 32;

(xiii) Murder;

(xiv) Assault with intent to murder;

(xv) Espionage;

(xvi) Sedition;
(xvii) Kidnapping or hostage taking;
(xviii) Treason;
(xix) Rape or aggravated sexual abuse;
(xx) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon;
(xxi) Extortion;
(xxii) Armed robbery;
(xxiii) Distribution of, or intent to distribute, a controlled substance;
(xxiv) Felony arson; or
(xxv) Conspiracy or attempt to commit any of the aforementioned criminal acts.

(c) INVESTIGATIVE STEPS. Part 1 of the employment history investigation must be completed on all persons listed in paragraph (a) of this section. If required by paragraph (c)(5) of this section, Part 2 of the employment history investigation must also be completed on all persons listed in paragraph (a) of this section.

(1) The individual must provide the following information on an application form:

(i) The individual's full name, including any aliases or nicknames.

(ii) The dates, names, phone numbers, and addresses of previous employers, with explanations for any gaps in employment of more than 12 consecutive months, during the previous 10-year period.

(iii) Any convictions during the previous 10-year period of the crimes listed in paragraph (b)(2) of this section.

(2) The airport operator or the airport user must include on the application form a notification that the individual will be subject to an employment history verification and possibly a criminal records check.

(3) The airport operator or the airport user must verify the identity of the individual through the presentation of two forms of identification, one of which must bear the individual's photograph.

(4) The airport operator or the airport user must verify the information on the most recent 5 years of employment history required under paragraph (c)(1)(ii) of this section. Information must be verified in writing, by documentation, by telephone, or in person.

(5) If one or more of the conditions (triggers) listed in Sec. 107.31(c)(5)(i) through (iv) exist, the employment history investigation must not be considered complete unless Part 2 is accomplished. Only the airport operator may initiate Part 2 for airport users under this section. Part 2 consists of a comparison of the individual's fingerprints against the fingerprint files of known criminals maintained by the Federal Bureau of Investigation (FBI). The comparison of the individual's fingerprints must be processed through the FAA. The airport operator may request a check of the individual's fingerprint-based criminal record only if one or more of the following conditions exist:

(i) The individual does not satisfactorily account for a period of unemployment of 12 consecutive months or more during the previous 10- year period.

(ii) The individual is unable to support statements made on the application form.

(iii) There are significant inconsistencies in the information provided on the application.

(iv) Information becomes available to the airport operator or the airport user during the investigation indicating a possible conviction for one of the crimes listed in paragraph (b)(2) of this section.

(d) INDIVIDUAL NOTIFICATION. Prior to commencing the criminal records check, the airport operator must notify the affected individual and identify the Airport Security Coordinator as a contact for follow- up. An individual, who chooses not to submit fingerprints, after having met a requirement for Part 2 of the employment investigation, may not be granted unescorted access privilege.

(e) FINGERPRINT PROCESSING. If a fingerprint comparison is necessary under paragraph (c)(5) of this section to complete the employment history investigation the airport operator must collect and process fingerprints in the following manner:

(1) One set of legible and classifiable fingerprints must be recorded on fingerprint cards approved by the FBI, and distributed by the FAA for this purpose.

(2) The fingerprints must be obtained from the individual under direct observation by the airport operator or a law enforcement officer. Individuals submitting their fingerprints may not take possession of their fingerprint card after they have been fingerprinted.

(3) The identity of the individual must be verified at the time fingerprints are obtained. The individual must present two forms of identification, one of which must bear the individual's photograph.

(4) The fingerprint card must be forwarded to the FAA at the location specified by the Administrator.

(5) Fees for the processing of the criminal record checks are due upon application. Airport operators must submit payment through corporate check, cashier's check, or money order made payable to "U.S. FAA," at the designated rate for each fingerprint card. Combined payment for multiple applications is acceptable. The designated rate for processing the fingerprint cards is available from the local FAA security office.

(f) DETERMINAITON OF ARREST STATUS. In conducting the criminal record checks required by this section, the airport operator must not consider the employment history investigation complete unless it investigates arrest information for the crimes listed in paragraph (b)(2) of this section for which no disposition has been recorded and makes a determination that the arrest did not result in a disqualifying conviction.

(g) AVAILABILITY AND CORRECTION OF FBI RECORDS AND NOTIFICATION OF DISQUALIFICATION. (1) At the time Part 2 is initiated and the fingerprints are collected, the airport operator must notify the individual that a copy of the criminal record received from the FBI will be made available to the individual if requested in writing. When requested in writing, the airport operator must make available to the individual a copy of any criminal record received from the FBI.

(2) Prior to making a final decision to deny authorization to an individual described in paragraph (a) of this section, the airport operator must advise the individual that the FBI criminal record discloses information that would disqualify him/her from receiving

unescorted access and provide the individual with a copy of the FBI record if it has been requested.

(3) The airport operator must notify an individual that a final decision has been made to grant or deny authority for unescorted access.

(h) CORRECTIVE ACTION BY THE INDIVIDUAL. The individual may contact the local jurisdiction responsible for the information and the FBI to complete or correct the information contained in his/her record before any final decision is made, subject to the following conditions:

(1) Within 30 days after being advised that the criminal record received from the FBI discloses disqualifying information, the individual must notify the airport operator, in writing, of his/her intent to correct any information believed to be inaccurate.

(i) Upon notification by an individual that the record has been corrected, the airport operator must obtain a copy of the revised FBI record prior to making a final determination.

(2) If no notification is received within 30 days, the airport operator may make a final determination.

(i) LIMITS ON DISSEMINATION OF RESULTS. Criminal record information provided by the FBI must be used solely for the purposes of this section, and no person may disseminate the results of a criminal record check to anyone other than:

(1) The individual to whom the record pertains or that individual's authorized representative;

(2) Airport officials with a need to know; and

(3) Others designated by the Administrator.

(j) EMPLOYMENT STATUS WHILE AWAITING CRIMINAL RECORD CHECKS. Individuals who have submitted their fingerprints and are awaiting FBI results may perform work within the SIDA when under escort by someone who has unescorted SIDA access privileges.

(k) RECORDKEEPING. (1) Except when the airport operator has received a certification under paragraph (n)(1) of this section, the airport operator must physically maintain and control the Part 1 employment history investigation file until 180 days after the termination of the individual's authority for unescorted access. The Part 1, employment history investigation file, must consist of the following:

(i) The application;

(ii) The employment verification information obtained by the employer;

(iii) The names of those from whom the employment verification information was obtained;

(iv) The date and the method of how the contact was made; and

(v) Any other information as required by the Administrator.

(2) The airport operator must physically maintain, control and when appropriate destroy Part 2, the criminal record, for each individual for whom a fingerprint comparison has been completed. Part 2 must be maintained for 180 days after the termination of the individual's authority for unescorted access. Only direct airport operator employees may carry out this criminal record file responsibility. The Part 2 criminal record file must consist of the following:

(i) The criminal record received from the FBI as a result of an individual's fingerprint comparison; or

(ii) Information that the check was completed and no record exists.

(3) The files required by this section must be maintained in a manner that is acceptable to the Administrator and in a manner that protects the confidentiality of the individual.

(l) CONTINUING RESPONSIBILITIES. (1) Any individual authorized to have unescorted access privileges or who may authorize others to have unescorted access, who is subsequently convicted of any of the crimes listed in paragraph (b)(2) of this section must, within 24 hours, report the conviction to the airport operator and surrender the SIDA access medium to the issuer.

(2) If information becomes available to the airport operator or the airport user indicating that an individual with unescorted access has a possible conviction for one of the disqualifying crimes in paragraph (b)(2) of this section, the airport operator must determine the status of the conviction. If a disqualifying conviction is confirmed the airport operator must withdraw any authority granted under this section.

(m) EXCEPTIONS. Notwithstanding the requirements of this section, an airport operator may authorize the following individuals to have unescorted access, or to authorize others to have unescorted access to the SIDA:

(1) An employee of the Federal government or a state or local government (including a law enforcement officer) who, as a condition of employment, has been subjected to an employment investigation which includes a criminal record check.

(2) A crewmember of a foreign air carrier covered by an alternate security arrangement in the foreign air carrier's approved security program.

(3) An individual who has been continuously employed in a position requiring unescorted access by another airport operator, airport user or air carrier.

(4) Those persons who have received access to a U.S. Customs secured area prior to November 23, 1998.

(n) INVESTIGATIONS BY AIR CARRIERS AND AIRPORT USERS. An airport operator is in compliance with its obligation under paragraph (b) of this section, as applicable, when the airport operator accepts for each individual seeking unescorted access one of the following:

(1) Certification from an air carrier subject to Sec. 108.33 of this chapter indicating it has complied with Secs. 108.33 of this chapter for the air carrier's employees and contractors seeking unescorted access; or

(2) Certification from an airport user indicating it has complied with and will continue to comply with the provisions listed in paragraph (p) of this section. The certification must include the name of each individual for whom the airport user has conducted an employment history investigation.

(o) AIRPORT OPERATOR RESPONSIBILITY. The airport operator must:

(1) Prior to the acceptance of a certification from the airport user, the airport operator must conduct a preliminary review of the file

for each individual listed on the certification to determine that Part 1 has been completed.

(2) Designate the airport security coordinator (ASC), in the security program, to be responsible for reviewing the results of the airport employees' and airport users' employment history investigations and for destroying the criminal record files when their maintenance is no longer required by paragraph (k)(2) of this section;

(3) Designate the ASC, in the security program, to serve as the contact to receive notification from individuals applying for unescorted access of their intent to seek correction of their FBI criminal record; and

(4) Audit the employment history investigations performed by the airport operator in accordance with this section and those investigations conducted by the airport users made by certification under paragraph (n)(2). The audit program must be set forth in the airport security program.

(p) AIRPORT USER RESPONSIBILITY.

(1) The airport user is responsible for reporting to the airport operator information, as it becomes available, which indicates an individual with unescorted access may have a conviction for one of the disqualifying crimes in paragraph (b)(2) of this section; and

(2) If the airport user offers certification to the airport operator under paragraph (n)(2) of this section, the airport user must for each individual for whom a certification is made:

(i) Conduct the employment history investigation, Part 1, in compliance with paragraph (c) of this section. The airport user must report to the airport operator if one of the conditions in paragraph (C)(5) of this section exist;

(ii) Maintain and control Part 1 of the employment history investigation file in compliance with paragraph (k) of this section, unless the airport operator decides to maintain and control Part 1 of the employment history investigation file;

(iii) Provide the airport operator and the FAA with access to each completed Part 1 employee history investigative file of those individuals listed on the certification; and

(iv) Provide either the name or title of the individual acting as custodian of the files, and the address of the location and the phone number at the location where the investigative files are maintained.

[Doc. No. 28859, 63 FR 51218, Sept. 24, 1998; 63 FR 60448, Nov. 9, 1998]

b. Airplane Operator Security

Federal Aviation Administration Regulations, 14 CFR Part 108

PART 108—AIRPLANE OPERATOR SECURITY

§ 108.1 Applicability.

(a) This part prescribes aviation security rules governing—

(1) The operations of holders of FAA air carrier operating certificates or operating certificates engaging in scheduled passenger operations or public charter passenger operations;

(2) Each person aboard an airplane operated by a certificate holder described in paragraph (a)(1) of this section; and

(3) Each person on an airport at which the operations described in paragraph (a)(1) of this section are conducted.

(4) Each certificate holder who receives a Security Directive or Information Circular and each person who receives information from a Security Directive or an Information Circular issued by the Director of Civil Aviation Security.

(5) Each person who files an application or makes entries into any record or report that is kept, made or used to show compliance under this part, or to exercise any privileges under this part.

(b) This part does not apply to helicopter or to all-cargo operations.

§ 108.3 Definitions.

The following are definitions of terms used in this part: (a) *Certificate holder* means a person holding an FAA operating certificate when that person engages in scheduled passenger or public charter passenger operations or both.

(b) *Passenger seating configuration* means the total number of seats for which the aircraft is type certificated that can be made available for passenger use aboard a flight and includes that seat in certain airplanes which may be used by a representative of the Administrator to conduct flight checks but is available for revenue purposes on other occasions.

(c) *Private charter* means any charter for which the charterer engages the total capacity of an airplane for the carriage of: (1) Passengers in civil or military air movements conducted under contract with the Government of the United States of the Government of a foreign country; or

(2) Passengers invited by the charterer, the cost of which is borne entirely by the charterer and not directly or indirectly by the individual passengers.

(d) *Public charter* means any charter that is not a private charter.

(e) *Scheduled passenger operations* means holding out to the public of air transportation service for passengers from identified air

terminals at a set time announced by timetable or schedule published in a newspaper, magazine, or other advertising medium.

(f) *Sterile area* means an area to which access is controlled by the inspection of persons and property in accordance with an approved security program or a security program used in accordance with § 129.25.

§ Sec. 108.4 Falsification.

No person may make, or cause to be made, any of the following:

(a) Any fraudulent or intentionally false statement in any application for any security program, access medium, or identification medium, or any amendment thereto, under this part.

(b) Any fraudulent or intentionally false entry in any record or report that is kept, made, or used to show compliance with this part, or to exercise any privileges under this part.

(c) Any reproduction or alteration, for fraudulent purpose, of any report, record, security program, access medium, or identification medium issued under this part.

§ 108.5 Security program: Adoption and implementation.

(a) Each certificate holder shall adopt and carry out a security program that meets the requirements of § 108.7 for each of the following scheduled or public charter passenger operations: (1) Each operation with an airplane having a passenger seating configuration of more than 60 seats.

(2) Each operation that provides deplaned passengers access, that is not otherwise controlled by a certificate holder using an approved security program or a foreign air carrier using a security program required by § 129.25, to a sterile area.

(3) Each operation with an airplane having a passenger seating configuration of more than 30 but less than 61 seats; except that those parts of the program effecting compliance with the requirements listed in § 108.7(b) (1), (2), and (4) need only be implemented when the Director of Civil Aviation Security or a designate of the Director notifies the certificate holder in writing that a security threat exists with respect to the operation.

(b) Each certificate holder that has obtained FAA approval for a security program for operations not listed in paragraph (a) of this section shall carry out the provisions of that program.

§ 108.7 Security program: Form, content, and availability.

(a) Each security program required by § 108.5 shall—

(1) Provide for the safety of persons and property traveling in air transportation and intrastate air transportation against acts of criminal violence and air piracy;

(2) Be in writing and signed by the certificate holder or any person delegated authority in this matter;

(3) Include the items listed in paragraph (b) of this section, as required by § 108.5; and

(4) Be approved by the Administrator.

(b) Each security program required by § 108.5 must include the following, as required by that section:

(1) The procedures and a description of the facilities and equipment used to perform the screening functions specified in § 108.9.

(2) The procedures and a description of the facilities and equipment used to perform the airplane and facilities control functions specified in § 108.13.

(3) The procedures used to comply with the applicable requirements of § 108.15 regarding law enforcement officers.

(4) The procedures used to comply with the requirements of § 108.17 regarding the use of X-ray systems.

(5) The procedures used to comply with the requirements of § 108.19 regarding bomb and air piracy threats.

(6) The procedures used to comply with the applicable requirements of § 108.10.

(7) The curriculum used to accomplish the training required by § 108.23.

(8) The procedures and a description of the facilities and equipment used to comply with the requirements of § 108.20 regarding explosives detection systems.

(c) Each certificate holder having an approved security program shall—

(1) Maintain at least one complete copy of the approved security program at its principal business office;

(2) Maintain a complete copy or the pertinent portions of its approved security program or appropriate implementing instructions at each airport where security screening is being conducted;

(3) Make these documents available for inspection upon request of any Civil Aviation Security Inspector;

(4) Restrict the availability of information contained in the security program to those persons with an operational need-to-know; and

(5) Refer requests for such information by other persons to the Director of Civil Aviation Security of the FAA.

§ 108.9 Screening of passengers and property.

(a) Each certificate holder required to conduct screening under a security program shall use the procedures included, and the facilities and equipment described, in its approved security program to prevent or deter the carriage aboard airplanes of any explosive, incendiary, or a deadly or dangerous weapon on or about each individual's person or accessible property, and the carriage of any explosive or incendiary in checked baggage.

(b) Each certificate holder required to conduct screening under a security program shall refuse to transport—

(1) Any person who does not consent to a search of his or her person in accordance with the screening system prescribed in paragraph (a) of this section; and

(2) Any property of any person who does not consent to a search or inspection of that property in accordance with the screening system prescribed by paragraph (a) of this section.

(c) Except as provided by its approved security program, each certificate holder required to conduct screening under a security program shall use the procedures included, and the facilities and equipment described, in its approved security program for detecting explosives, incendiaries, and deadly or dangerous weapons to inspect each person entering a sterile area at each preboarding screening checkpoint in the United States for which it is respon-

sible, and to inspect all accessible property under that person's control.

(d) Each certificate holder shall staff its security screening checkpoints with supervisory and non-supervisory personnel in accordance with the standards specified in its security program.

§ 108.10 Prevention and management of hijackings and sabotage attempts.

(a) Each certificate holder shall—

(1) Provide and use a Security Coordinator on the ground and in flight for each international and domestic flight, as required by its approved security program; and

(2) Designate the pilot in command as the inflight Security Coordinator for each flight, as required by its approved security program.

(b) Ground Security Coordinator. Each ground Security Coordinator shall carry out the ground Security Coordinator duties specified in the certificate holder's approved security program.

(c) Inflight Security Coordinator. The pilot in command of each flight shall carry out the inflight Security Coordinator duties specified in the certificate holder's approved security program.

§ 108.11 Carriage of weapons.

(a) No certificate holder required to conduct screening under a security program may permit any person to have, nor may any person have, on or about his or her person or property, a deadly or dangerous weapon, either concealed or unconcealed, accessible to him or her while aboard an airplane for which screening is required unless:

(1) The person having the weapon is—

(i) An official or employee of the United States, or a State or political subdivision of a State, or of a municipality who is authorized by his or her agency to have the weapon; or

(ii) Authorized to have the weapon by the certificate holder and the Administrator and has successfully completed a course of training in the use of firearms acceptable to the Administrator.

(2) The person having the weapon needs to have the weapon accessible in connection with the performance of his or her duty from the time he or she would otherwise check it in accordance with paragraph (d) of this section until the time it would be returned after deplaning.

(3) The certificate holder is notified—

(i) Of the flight on which the armed person intends to have the weapon accessible to him or her at least 1 hour, or in an emergency as soon as practicable, before departure; and

(ii) When the armed person is other than an employee or official of the United States, that there is a need for the weapon to be accessible to the armed person in connection with the performance of that person's duty from the time he or she would otherwise check it in accordance with paragraph (d) of this section until the time it would be returned to him or her after deplaning.

(4) The armed person identifies himself or herself to the certificate holder by presenting credentials that include his or her clear, full-face picture, his or her signature, and the signature of the au-

thorizing official of his or her service or the official seal of his or her service. A badge, shield, or similar may not be used as the sole means of identification.

(5) The certificate holder—

(i) Ensures that the armed person is familiar with its procedures for carrying a deadly or dangerous weapon aboard its airplane before the time the person boards the airplane;

(ii) Ensures that the identity of the armed person is known to each law enforcement officer and each employee of the certificate holder responsible for security during the boarding of the airplane; and

(iii) Notifies the pilot in command, other appropriate crewmembers, and any other person authorized to have a weapon accessible to him or her aboard the airplane of the location of each authorized armed person aboard the airplane.

(b) No person may, while on board an airplane operated by a certificate holder for which screening is not conducted, carry on or about that person a deadly or dangerous weapon, either concealed or unconcealed. This paragraph does not apply to—

(1) Officials or employees of a municipality or a State, or of the United States, who are authorized to carry arms; or

(2) Crewmembers and other persons authorized by the certificate holder to carry arms.

(c) No certificate holder may knowingly permit any person to transport, nor may any person transport or tender for transport, any explosive, incendiary or a loaded firearm in checked baggage aboard an airplane. For the purpose of this section, a loaded firearm means a firearm which has a live round of ammunition, cartridge, detonator, or powder in the chamber or in a clip, magazine, or cylinder inserted in it.

(d) No certificate holder may knowingly permit any person to transport, nor may any person transport or tender for transport, any unloaded firearm in checked baggage aboard an airplane unless—

(1) The passenger declares to the certificate holder, either orally or in writing before checking the baggage, that any firearm carried in the baggage is unloaded;

(2) The firearm is carried in a container the certificate holder considers appropriate for air transportation;

(3) When the firearm is other than a shotgun, rifle, or other firearm normally fired from the shoulder position, the baggage in which it is carried is locked, and only the passenger checking the baggage retains the key or combination; and

(4) The baggage containing the firearm is carried in an area, other than the flightcrew compartment, that is inaccessible to passengers.

(e) No certificate holder may serve any alcoholic beverage to a person having a deadly or dangerous weapon accessible to him or her nor may such person drink any alcoholic beverage while aboard an airplane operated by the certificate holder.

(f) Paragraphs (a), (b), and (d) of this section do not apply to the carriage of firearms aboard air carrier flights conducted for the military forces of the Government of the United States when the

total cabin load of the airplane is under exclusive use by those military forces if the following conditions are met:

(1) No firearm is loaded and all bolts to such firearms are locked in the open position; and

(2) The certificate holder is notified by the unit commander or officer in charge of the flight before boarding that weapons will be carried aboard the aircraft.

§ 108.13 Security of airplanes and facilities.

Each certificate holder required to conduct screening under a security program shall use the procedures included, and the facilities and equipment described, in its approved security program to perform the following control functions with respect to each airplane operation for which screening is required:

(a) Prohibit unauthorized access to the airplane.

(b) Ensure that baggage carried in the airplane is checked in by a responsible agent and that identification is obtained from persons, other than known shippers, shipping goods or cargo aboard the airplane.

(c) Ensure that cargo and checked baggage carried aboard the airplane is handled in a manner that prohibits unauthorized access.

(d) Conduct a security inspection of the airplane before placing it in service and after it has been left unattended.

§ 108.14 Transportation of Federal Air Marshals.

(a) Each certificate holder shall carry Federal Air Marshals, in the number and manner specified by the Administrator, on each scheduled and public charter passenger operation designated by the Administrator.

(b) Each Federal Air Marshal shall be carried on a first priority basis and without charge while on official duty, including repositioning flights.

(c) Each certificate holder shall assign the specific seat requested by a Federal Air Marshal who is on official duty.

§ 108.15 Law enforcement officers.

(a) At airports within the United States not governed by part 107 of this chapter, each certificate holder engaging in scheduled passenger or public charter passenger operations shall—

(1) If security screening is required for a public charter operation by § 108.5(a), or for a scheduled passenger operation by § 108.5(b) provide for law enforcement officers meeting the qualifications and standards, and in the number and manner specified, in part 107; and

(2) When using airplanes with a passenger seating configuration of 31 through 60 seats in a public charter operation for which screening is not required, arrange for law enforcement officers meeting the qualifications and standards specified in part 107 to be available to respond to an incident, and provide to its employees, including crewmembers, as appropriate, current information with respect to procedures for obtaining law enforcement assistance at that airport.

(b) At airports governed by part 107 of this chapter, each certificate holder engaging in scheduled or public charter passenger operations, when using airplanes with a passenger seating configuration of 31 through 60 seats for which screening is not required, shall arrange for law enforcement officers meeting the qualifications and standards specified in part 107 to be available to respond to an incident and provide its employees, including crewmembers, as appropriate, current information with respect to procedures for obtaining this law enforcement assistance at that airport.

§ 108.17 Use of X-ray systems.

(a) No certificate holder may use an X-ray system within the United States to inspect carry-on or checked articles unless specifically authorized under a security program required by § 108.5 of this part or use such a system contrary to its approved security program. The Administrator authorizes certificate holders to use X-ray systems for inspecting carry-on or checked articles under an approved security program if the certificate holder shows that—

(1) For a system manufactured before April 25, 1974, it meets either the guidelines issued by the Food and Drug Administration (FDA), Department of Health, Education, and Welfare (HEW) and published in the FEDERAL REGISTER (38 FR 21442, August 8, 1973); or the performance standards for cabinet X-ray systems designed primarily for the inspection of carry-on baggage issued by the FDA and published in 21 CFR 1020.40 (39 FR 12985, April 10, 1974);

(2) For a system manufactured after April 24, 1974, it meets the standards for cabinet X-ray systems designed primarily for the inspection of carry-on baggage issued by the FDA and published in 21 CFR 1020.40 (39 FR 12985, April 10, 1974);

(3) A program for initial and recurrent training of operators of the system is established, which includes training in radiation safety, the efficient use of X-ray systems, and the identification of weapons and other dangerous articles;

(4) Procedures are established to ensure that each operator of the system is provided with an individual personnel dosimeter (such as a film badge or thermoluminescent dosimeter). Each dosimeter used shall be evaluated at the end of each calendar month, and records of operator duty time and the results of dosimeter evaluations shall be maintained by the certificate holder; and

(5) The system meets the imaging requirements set forth in an approved Air Carrier Security Program using the step wedge specified in American Society for Testing and Materials Standard F792-82.

(b) No certificate holder may use an X-ray system within the United States unless within the preceding 12 calendar months a radiation survey has been conducted which shows that the system meets the applicable performance standards in 21 CFR 1020.40 or guidelines published by the FDA in the FEDERAL REGISTER of August 8, 1973 (38 FR 21442).

(c) No certificate holder may use an X-ray system after the system is initially installed or after it has been moved from one location to another, unless a radiation survey is conducted which shows that the system meets the applicable performance standards in 21 CFR 1020.40 or guidelines published by the FDA in the FEDERAL

REGISTER of August 8, 1973 (38 FR 21442) except that a radiation survey is not required for an X-ray system that is moved to another location if the certificate holder shows that the system is so designed that it can be moved without altering its performance.

(d) No certificate holder may use an X-ray system that is not in full compliance with any defect notice or modification order issued for that system by the FDA, unless that Administration has advised the FAA that the defect or failure to comply does not create a significant risk or injury, including genetic injury, to any person.

(e) No certificate holder may use an X-ray system to inspect carry-on or checked articles unless a sign is posted in a conspicuous place at the screening station and on the X-ray system which notifies passengers that such items are being inspected by an X-ray and advises them to remove all X-ray, scientific, and high-speed film from carry-on and checked articles before inspection. This sign shall also advise passengers that they may request that an inspection be made of their photographic equipment and film packages without exposure to an X-ray system. If the X-ray system exposes any carry-on or checked articles to more than 1 milliroentgen during the inspection, the certificate holder shall post a sign which advises passengers to remove film of all kinds from their articles before inspection. If requested by passengers, their photographic equipment and film packages shall be inspected without exposure to an X-ray system.

(f) Each certificate holder shall maintain at least one copy of the results of the most recent radiation survey conducted under paragraph (b) or (c) of this section and shall make it available for inspection upon request by the Administrator at each of the following locations:

(1) The certificate holder's principal business office; and

(2) The place where the X-ray system is in operation.

(g) The American Society for Testing and Materials Standard F792-82, "Design and Use of Ionizing Radiation Equipment for the Detection of Items Prohibited in Controlled Access Areas," described in this section is incorporated by reference herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by these amendments may obtain copies of the standard from the American Society for testing and Materials, 1916 Race Street, Philadelphia, PA 19103. In addition, a copy of the standard may be examined at the FAA Rules Docket, Docket No. 24115, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

(h) Each certificate holder shall comply with X-ray operator duty time limitations specified in its security program.

§ 108.18 Security Directives and Information Circulars.

(a) Each certificate holder required to have an approved security program for passenger operations shall comply with each Security Directive issued to the certificate holder by the Director of Civil Aviation Security, or by any person to whom the Director has delegated the authority to issue Security Directives, within the time prescribed in the Security Directive for compliance.

(b) Each certificate holder who receives a Security Directive shall—

(1) Not later than 24 hours after delivery by the FAA or within the time prescribed in the Security Directive, acknowledge receipt of the Security Directive;

(2) Not later than 72 hours after delivery by the FAA or within the time prescribed in the Security Directive, specify the method by which the certificate holder has implemented the measures in the Security Directive; and

(3) Ensure that information regarding the Security Directive and measures implemented in response to the Security Directive are distributed to specified personnel as prescribed in the Security Directive and to other personnel with an operational need to know.

(c) In the event that the certificate holder is unable to implement the measures contained in the Security Directive, the certificate holder shall submit proposed alternative measures, and the basis for submitting the alternative measures, to the Director of Civil Aviation Security for approval. The certificate holder shall submit proposed alternative measures within the time prescribed in the Security Directive. The certificate holder shall implement any alternative measures approved by the Director of Civil Aviation Security.

(d) Each certificate holder who receives a Security Directive or Information Circular and each person who receives information from a Security Directive or Information Circular shall—

(1) Restrict the availability of the Security Directive or Information Circular and information contained in the Security Directive or the Information Circular to those persons with an operational need to know; and

(2) Refuse to release the Security Directive or Information Circular and information regarding the Security Directive or Information Circular to persons other than those with an operational need to know without the prior written consent of the Director of Civil Aviation Security.

(Approved by the Office of Management and Budget under control number 2120-0098)

§ 108.19 Security threats and procedures.

(a) Upon receipt of a specific and credible threat to the security of a flight, the certificate holder shall—

(1) Immediately notify the ground and in-flight security coordinators of the threat, any evaluation thereof, and any countermeasures to be applied; and

(2) Ensure that the in-flight security coordinator notifies the flight and cabin crewmembers of the threat, any evaluation thereof, and any countermeasures to be applied.

(b) Upon receipt of a bomb threat against a specific airplane, each certificate holder shall attempt to determine whether or not any explosive or incendiary is aboard the airplane involved by doing the following:

(1) Conducting a security inspection on the ground before the next flight or, if the airplane is in flight, immediately after its next landing.

(2) If the airplane is being operated on the ground, advising the pilot in command to immediately submit the airplane for a security inspection.

(3) If the airplane is in flight, immediately advising the pilot in command of all pertinent information available so that necessary emergency action can be taken.

(c) Immediately upon receiving information that an act or suspected act of air piracy has been committed, the certificate holder shall notify the Administrator. If the airplane is in airspace under other than United States jurisdiction, the certificate holder shall also notify the appropriate authorities of the State in whose territory the airplane is located and, if the airplane is in flight, the appropriate authorities of the State in whose territory the airplane is to land. Notification of the appropriate air traffic controlling authority is sufficient action to meet this requirement.

§ 108.20 Use of Explosives Detection Systems.

When the Administrator shall require by amendment under § 108.25, each certificate holder required to conduct screening under a security program shall use an explosive detection system that has been approved by the Administrator to screen checked baggage on international flights in accordance with the certificate holder's security program.

§ 108.21 Carriage of passengers under the control of armed law enforcement escorts.

(a) Except as provided in paragraph (e) of this section, no certificate holder required to conduct screening under a security program may carry a passenger in the custody of an armed law enforcement escort aboard an airplane for which screening is required unless—

(1) The armed law enforcement escort is an official or employee of the United States, of a State or political subdivision of a State, or a municipality who is required by appropriate authority to maintain custody and control over an individual aboard an airplane;

(2) The certificate holder is notified by the responsible government entity at least 1 hour, or in case of emergency as soon as possible, before departure—

(i) Of the identity of the passenger to be carried and the flight on which it is proposed to carry the passenger; and

(ii) Whether or not the passenger is considered to be in a maximum risk category;

(3) If the passenger is considered to be in a maximum risk category, that the passenger is under the control of at least two armed law enforcement escorts and no other passengers are under the control of those two law enforcement escorts;

(4) No more than one passenger who the certificate holder has been notified is in a maximum risk category is carried on the airplane;

(5) If the passenger is not considered to be in a maximum risk category, the passenger is under the control of at least one armed law enforcement escort, and no more than two of these persons are carried under the control of any one law enforcement escort;

(6) The certificate holder is assured, prior to departure, by each law enforcement escort that—

(i) The officer is equipped with adequate restraining devices to be used in the event restraint of any passenger under the control of the escort becomes necessary; and

(ii) Each passenger under the control of the escort has been searched and does not have on or about his or her person or property anything that can be used as a deadly or dangerous weapon;

(7) Each passenger under the control of a law enforcement escort is—

(i) Boarded before any other passengers when boarding at the airport where the flight originates and deplaned at the destination after all other deplaning passengers have deplaned;

(ii) Seated in the rear-most passenger seat when boarding at the airport where the flight originates; and

(iii) Seated in a seat that is neither located in any lounge area nor located next to or directly across from any exit; and

(8) A law enforcement escort having control of a passenger is seated between the passenger and any aisle.

(b) No certificate holder operating an airplane under paragraph (a) of this section may—

(1) Serve food beverage or provide metal eating utensils to a passenger under the control of a law enforcement escort while aboard the airplane unless authorized to do so by the law enforcement escort.

(2) Serve a law enforcement escort or the passenger under the control of the escort any alcoholic beverages while aboard the airplane.

(c) Each law enforcement escort carried under the provisions of paragraph (a) of this section shall, at all times, accompany the passenger under the control of the escort and keep the passenger under surveillance while aboard the airplane.

(d) No law enforcement escort carried under paragraph (b) of this section or any passenger under the control of the escort may drink alcoholic beverages while aboard the airplane.

(e) This section does not apply to the carriage of passengers under voluntary protective escort.

§ 108.23 Training.

(a) No certificate holder may use any person as a Security Coordinator unless, within the preceding 12 calendar months, that person has satisfactorily completed the security training as specified in the certificate holder's approved security program.

(b) No certificate holder may use any person as a crewmember on any domestic or international flight unless within the preceding 12 calendar months or within the time period specified in an Advanced Qualification Program approved under SFAR 58 that person has satisfactorily completed the security training required by § 121.417(b)(3)(v) or § 135.331(b)(3)(v) of this chapter and as specified in the certificate holder's approved security program. With respect to training conducted under § 121.417 or § 135.331, whenever a crewmember who is required to take recurrent training completes the training in the calendar month before or the calendar month after the calendar month in which that training is required, he is considered to have completed the training in the calendar month in which it was required.

§ 108.25 Approval of security programs and amendments.

(a) Unless otherwise authorized by the Administrator, each certificate holder required to have a security program for a passenger operation shall submit its proposed security program to the Administrator for approval at least 90 days before the date of the intended passenger operations. Within 30 days after receiving the program, the Administrator either approves the program or notifies the certificate holder to modify the program to comply with the applicable requirements of this part. The certificate holder may petition the Administrator to reconsider the notice to modify within 30 days after receiving the notice, and, except in the case of an emergency requiring immediate action in the interest of safety, the filing of the petition stays the notice pending a decision by the Administrator.

(b) The Administrator may amend an approved security program if it is determined that safety and the public interest require the amendment, as follows:

(1) The Administrator notifies the certificate holder, in writing, of the proposed amendment, fixing a period of not less than 30 days within which it may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the Administrator notifies the certificate holder of any amendment adopted or rescinds the notice. The amendment becomes effective not less than 30 days after the certificate holder receives the notice, unless the certificate holder petitions the Administrator to reconsider the amendment, in which case the effective date is stayed by the Administrator.

(3) If the Administrator finds that there is an emergency requiring immediate action with respect to safety in air transportation or in air commerce that makes the procedure in this paragraph impracticable or contrary to the public interest, the Administrator may issue an amendment, effective without stay, on the date the certificate holder receives notice of it. In such a case, the Administrator incorporates the findings, and a brief statement of the reasons for it, in the notice of the amendment to be adopted.

(c) A certificate holder may submit a request to the Administrator to amend its program. The application must be filed with the Administrator at least 30 days before the date it proposes for the amendment to become effective, unless a shorter period is allowed by the Administrator. Within 15 days after receiving a proposed amendment, the Administrator either approves or denies the request. Within 30 days after receiving from the Administrator a notice of refusal to approve the application for amendment, the applicant may petition the Administrator to reconsider the refusal to amend.

§ 108.27 Evidence of compliance.

On request of the Administrator, each certificate holder shall provide evidence of compliance with this part and its approved security program.

§ 108.29 Standards for security oversight.

(a) Each certificate holder shall ensure that:

(1) Each person performing a security-related function for the certificate holder has knowledge of the provisions of this part 108, applicable Security Directives and Information Circulars promulgated pursuant to § 108.18, and the certificate holder's security program to the extent that the performance of the function imposes a need to know.

(2) Daily, a Ground Security Coordinator at each airport:

(i) Reviews all security-related functions for effectiveness and compliance with this part, the certificate holder's security program, and applicable Security Directives; and

(ii) Immediately initiates corrective action for each instance of noncompliance with this part, the certificate holder's security program, and applicable Security Directives.

(b) The requirements prescribed in paragraph (a) of this section apply to all security-related functions performed for the certificate holder whether by a direct employee or a contractor employee.

§ 108.31 Employment standards for screening personnel.

(a) No certificate holder shall use any person to perform any screening function, unless that person has:

(1) A high school diploma, a General Equivalency Diploma, or a combination of education and experience which the certificate holder has determined to have equipped the person to perform the duties of the position;

(2) Basic aptitudes and physical abilities including color perception, visual and aural acuity, physical coordination, and motor skills to the following standards:

(i) Screeners operating X-ray equipment must be able to distinguish on the X-ray monitor the appropriate imaging standard specified in the certificate holder's security program. Wherever the X-ray system displays colors, the operator must be able to perceive each color;

(ii) Screeners operating any screening equipment must be able to distinguish each color displayed on every type of screening equipment and explain what each color signifies;

(iii) Screeners must be able to hear and respond to the spoken voice and to audible alarms generated by screening equipment in an active checkpoint environment;

(iv) Screeners performing physical searches or other related operations must be able to efficiently and thoroughly manipulate and handle such baggage, containers, and other objects subjects to security processing; and

(v) Screeners who perform pat-downs or hand-held metal detector searches of persons must have sufficient dexterity and capability to conduct those procedures on all parts of the persons' bodies.

(3) The ability to read, speak, and write English well enough to:

(i) Carry out written and oral instructions regarding the proper performance of screening duties;

(ii) Read English language identification media, credentials, airline tickets, and labels on items normally encountered in the screening process;

(iii) Provide direction to and understand and answer questions from English-speaking persons undergoing screening; and

(iv) Write incident reports and statements and log entries into security records in the English language.

(4) Satisfactorily completed all initial, recurrent, and appropriate specialized training required by the certificate holder's security program.

(b) Notwithstanding the provisions of paragraph (a)(4) of this section, the certificate holder may use a person during the on-the-job portion of training to perform security functions provided that the person is closely supervised and does not make independent judgments as to whether persons or property may enter a sterile area or aircraft without further inspection.

(c) No certificate holder shall use a person to perform a screening function after that person has failed an operational test related to that function until that person has successfully completed the remedial training specified in the certificate holder's security program.

(d) Each certificate holder shall ensure that a Ground Security Coordinator conducts and documents an annual evaluation of each person assigned screening duties and may continue that person's employment in a screening capacity only upon the determination by that Ground Security Coordinator that the person:

(1) Has not suffered a significant dimunition of any physical ability required to perform a screening function since the last evaluation of those abilities;

(2) Has a satisfactory record of performance and attention to duty; and

(3) Demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform screening functions.

(e) Paragraphs (a) through (d) of this section do not apply to those screening functions conducted outside the United States over which the certificate holder does not have operational control.

(f) At locations outside the United States where the certificate holder has operational control over a screening function, the certificate holder may use screeners who do not meet the requirements of paragraph (a)(3) of this section, provided that at least one representative of the certificate holder who has the ability to functionally read and speak English is present while the certificate holder's passengers are undergoing security processing.

§ 108.33 Employment history, verification and criminal history records checks.

(a) SCOPE. The following persons are within the scope of this section:

(1) Each employee or contractor employee covered under a certification made to an airport operator, pursuant to Sec. 107.31(n) of this chapter, made on or after November 23, 1998.

(2) Each individual issued air carrier identification media that one or more airports accepts as airport approved media for unescorted access within a security identification display area (SIDA) as described in Sec. 107.25 of this chapter.

(3) Each individual assigned, after November 23, 1998, to perform the following functions:

(i) Screen passengers or property that will be carried in a cabin of an aircraft of an air carrier required to screen passengers under this part.

(ii) Serve as an immediate supervisor (checkpoint security supervisor (CSS)), or the next supervisory level (shift or site supervisor), to those individuals described in paragraph (a)(3)(i) of this section.

(b) EMPLOYMENT HISTORY INVESTIGATIONS REQUIRED. Each air carrier must ensure that, for each individual described in paragraph (a) of this section, the following requirements are met:

(1) The individual has satisfactorily undergone Part 1 of an employment history investigation. Part 1 consists of a review of the previous 10 years of employment history and verifications of the 5 employment years preceding the date the employment history investigation is initiated as provided in paragraph (c) of this section; and

(2) If required by paragraph (c)(5) of this section, the individual has satisfied Part 2 of the employment history investigation. Part 2 is the process to determine if the individual has a criminal record. To satisfy Part 2 of the investigation the criminal records check must not disclose that the individual has been convicted or found not guilty by reason of insanity, in any jurisdiction, during the 10 years ending on the date of such investigation, of any of the crimes listed below:

(i) Forgery of certificates, false marking of aircraft, and other aircraft registration violation, 49 U.S.C. 46306;

(ii) Interference with air navigation, 49 U.S.C. 46308;

(iii) Improper transportation of a hazardous material, 49 U.S.C. 46312;

(iv) Aircraft piracy, 49 U.S.C. 46502;

(v) Interference with flightcrew members or flight attendants, 49 U.S.C. 46504;

(vi) Commission of certain crimes aboard aircraft in flight, 49 U.S.C. 46506;

(vii) Carrying a weapon or explosive aboard aircraft, 49 U.S.C. 46505;

(viii) Conveying false information and threats, 49 U.S.C. 46507;

(ix) Aircraft piracy outside the special aircraft jurisdiction of the United States, 49 U.S.C. 46502(b);

(x) Lighting violations involving transporting controlled substances, 49 U.S.C. 46315;

(xi) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements, 49 U.S.C. 46314;

(xii) Destruction of an aircraft or aircraft facility, 18 U.S.C. 32;

(xiii) Murder;

(xiv) Assault with intent to murder;

(xv) Espionage;

(xvi) Sedition;

(xvii) Kidnapping or hostage taking;

(xviii) Treason;

(xix) Rape or aggravated sexual abuse;

(xx) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon;

(xxi) Extortion;

(xxii) Armed robbery;

(xxiii) Distribution of, or intent to distribute, a controlled substance;

(xxiv) Felony arson; or

(xxv) Conspiracy or attempt to commit any of the aforementioned criminal acts.

(c) INVESTIGATIVE STEPS. Part 1 of the employment history investigations must be completed on all persons described in paragraph (a) of this section. If required by paragraph (c)(5) of this section, Part 2 of the employment history investigation must also be completed on all persons listed in paragraph (a) of this section.

(1) The individual must provide the following information on an application:

(i) The individual's full name, including any aliases or nicknames;

(ii) The dates, names, phone numbers, and addresses of previous employers, with explanations for any gaps in employment of more than 12 consecutive months, during the previous 10-year period;

(iii) Any convictions during the previous 10-year period of the crimes listed in paragraph (b)(2) of this section.

(2) The air carrier must include on the application form a notification that the individual will be subject to an employment history verification and possibly a criminal records check.

(3) The air carrier must verify the identity of the individual through the presentation of two forms of identification, one of which must bear the individual's photograph.

(4) The air carrier must verify the information on the most recent 5 years of employment history required under paragraph (c)(1)(ii) of this section. Information must be verified in writing, by documentation, by telephone, or in person.

(5) If one or more of the conditions (triggers) listed in Sec. 108.33(c)(5) (i) through (iv) exist, the employment history investigation must not be considered complete unless Part 2 is accomplished. Only the air carrier may initiate Part 2. Part 2 consists of a comparison of the individual's fingerprints against the fingerprint files of known criminals maintained by the Federal Bureau of Investigation (FBI). The comparison of the individual's fingerprints must be processed through the FAA. The air carrier may request a check of the individual's fingerprint- based criminal record only if one or more of the following conditions exist:

(i) The individual does not satisfactorily account for a period of unemployment of 12 consecutive months or more during the previous 10- year period.

(ii) The individual is unable to support statements made on the application form.

(iii) There are significant inconsistencies in the information provided on the application.

(iv) Information becomes available to the air carrier during the investigation indicating a possible conviction for one of the crimes listed in paragraph (b)(2) of this section.

(d) INDIVIDUAL NOTIFICATION. Prior to commencing the criminal records check, the air carrier must notify the affected individuals and identify a point of contact for follow-up. An individual who chooses not to submit fingerprints may not be granted unescorted

access privilege and may not be allowed to hold screener or screener supervisory positions.

(e) FINGERPRINT PROCESSING. If a fingerprint comparison is necessary under paragraph (c)(5) of this section to complete the employment history investigation the air carrier must collect and process fingerprints in the following manner:

(1) One set of legible and classifiable fingerprints must be recorded on fingerprint cards approved by the FBI and distributed by the FAA for this purpose.

(2) The fingerprints must be obtained from the individual under direct observation by the air carrier or a law enforcement officer. Individuals submitting their fingerprints must not take possession of their fingerprint card after they have been fingerprinted.

(3) The identify of the individual must be verified at the time fingerprints are obtained. The individual must present two forms of identification, one of which must bear the individual's photograph.

(4) The fingerprint card must be forwarded to FAA at the location specified by the Administrator.

(5) Fees for the processing of the criminal records checks are due upon application. Air carriers must submit payment through corporate check, cashier's check, or money order made payable to "U.S. FAA," at the designated rate for each fingerprint card. Combined payment for multiple applications is acceptable. The designated rate for processing the fingerprint cards is available from the local FAA security office.

(f) DETERMINATION OF ARREST STATUS. In conducting the criminal record checks required by this section, the air carrier must not consider the employment history investigation complete unless it investigates arrest information for the crimes listed in paragraph (b)(2) of this section for which no disposition has been recorded and makes a determination that the arrest did not result in a disqualifying conviction.

(g) AVAILABILITY AND CORRECTION OF FBI RECORDS AND NOTIFICATION OF DISQUALIFICATION. (1) At the time Part 2 is initiated and the fingerprints are collected, the air carrier must notify the individual that a copy of the criminal record received from the FBI will be made available to the individual if requested in writing. When requested in writing, the air carrier must make available to the individual a copy of any criminal record received from the FBI.

(2) Prior to making a final decision to deny authorization to an individual described in paragraph (a) of this section, the air carrier must advise the individual that the FBI criminal record discloses information that would disqualify him/her from positions covered under this rule and provide him/her with a copy of their FBI record if requested.

(3) The air carrier must notify an individual that a final decision has been made to forward or not forward a letter of certification for unescorted access to the airport operator, or to grant or deny the individual authority to perform screening functions listed under paragraph (a)(3) of this section.

(h) CORRECTIVE ACTION BY THE INDIVIDUAL. The individual may contact the local jurisdiction responsible for the information and the FBI to complete or correct the information contained in his/her record before the air carrier makes any decision to withhold his/her

name from a certification, or not grant authorization to perform screening functions subject to the following conditions:

(1) Within 30 days after being advised that the criminal record received from the FBI discloses disqualifying information, the individual must notify the air carrier, in writing, of his/her intent to correct any information believed to be inaccurate.

(2) Upon notification by an individual that the record has been corrected, the air carrier must obtain a copy of the revised FBI record prior to making a final determination.

(3) If no notification is received within 30 days, the air carrier may make a final determination.

(i) LIMITS ON DISSEMINATION OF RESULTS. Criminal record information provided by the FBI must be used solely for the purposes of this section, and no person may disseminate the results of a criminal record check to anyone other than:

(1) The individual to whom the record pertains or that individual's authorized representative;

(2) Air carrier officials with a need to know; and

(3) Others designated by the Administrator.

(j) EMPLOYMENT STATUS WHILE AWAITING CRIMINAL RECORD CHECKS. Individuals who have submitted their fingerprints and are awaiting FBI results may perform work details under the following conditions:

(1) Those seeking unescorted access to the SIDA must be escorted by someone who has unescorted SIDA access privileges;

(2) Those applicants seeking positions covered under paragraphs (a)(3) and (a)(4) of this section, may not exercise any independent judgments regarding those functions.

(k) RECORDKEEPING. (1) The air carrier must physically maintain and control Part 1 employment history investigation file until 180 days after the termination of the individual's authority for unescorted access or termination from positions covered under paragraph (a)(3) of this section. Part 1 of the employment history investigation, completed on screening personnel must be maintained at the airport where they perform screening functions. Part 1 of the employment history investigation file must consist of the following:

(i) The application;

(ii) The employment verification information obtained by the employer;

(iii) the names of those from whom the employment verification information was obtained;

(iv) The date and the method of how the contact was made; and

(v) Any other information as required by the Administrator.

(2) The air carrier must physically maintain, control and when appropriate destroy Part 2, the criminal record file, for each individual for whom a fingerprint comparison has been made. Part 2 must be maintained for 180 days after the termination of the individual's authority for unescorted access or after the individual ceases to perform screening functions. Only direct air carrier employees may carry out Part 2 responsibilities. Part 2 must consist of the following:

(i) The results of the record check; or

(ii) Certification from the air carrier that the check was completed and did not uncover a disqualifying conviction.

(3) The files required by this paragraph must be maintained in a manner that is acceptable to the Administrator and in a manner that protects the confidentiality of the individual.

(l) CONTINUING RESPONSIBILITIES. (1) Any individual authorized to have unescorted access privilege to the SIDA or who performs functions covered under paragraph (a)(3) of this section, who is subsequently convicted of any of the crimes listed in paragraph (b)(2) of this section must, within 24 hours, report the conviction to the air carrier and surrender the SIDA access medium or any employment related identification medium to the issuer.

(2) If information becomes available to the air carrier indicating that an individual has a possible conviction for one of the disqualifying crimes in paragraph (b)(2) of this section, the air carrier must determine the status of the conviction and, if the conviction is confirmed:

(i) Immediately revoke access authorization for unescorted access to the SIDA; or

(ii) Immediately remove the individual from screening functions covered under paragraph (a)(3) of this section.

(m) AIR CARRIER RESPONSIBILITY. The air carrier must:

(1) Designate an individual(s), in the security program, to be responsible for maintaining and controlling the employment history investigation for those whom the air carrier has made a certification to an airport operator under Sec. 107.31(n)(1) of this chapter and for destroying the criminal record files when their maintenance is no longer required by paragraph (k)(2) of this section.

(2) Designate individual(s), in the security program, to maintain and control Part 1 of the employment history investigations of screeners whose files must be maintained at the location or station where the screener is performing his or her duties.

(3) Designate individual(s), in the security program, to serve as the contact to receive notification from an individual applying for either unescorted access or those seeking to perform screening functions of his or her intent to seek correction of his or her criminal record with the FBI.

(4) Designate an individual(s), in the security program, to maintain and control Part 2 of the employment history investigation file for all employees, contractors, or others who undergo a fingerprint comparison at the request of the air carrier.

(5) Audit the employment history investigations performed in accordance with this section. The audit process must be set forth in the air carrier approved security program.

[Doc. No. 28859, 63 FR 51220, Sept. 24, 1998; 63 FR 60448, Nov. 9, 1998]

c. Operations: Foreign Air Carriers and Foreign Operators of U.S.-Registered Aircraft Engaged in Common Carriage

Federal Aviation Administration Regulations, 14 CFR Part 129

PART 129—OPERATIONS: FOREIGN AIR CARRIERS AND FOREIGN OPERATORS OF U.S.-REGISTERED AIRCRAFT ENGAGED IN COMMON CARRIAGE

SPECIAL FEDERAL AVIATION REGULATION NO. 38-2

§ 129.1 Applicability.

(a) Except as provided in paragraph (b) of this section, this part prescribes rules governing the operation within the United States of each foreign air carrier holding a permit issued by the Civil Aeronautics Board or the Department of Transportation under section 402 of the Federal Aviation Act of 1958 (49 U.S.C. 1372) or other appropriate economic or exemption authority issued by the Civil Aeronautics Board or the Department of Transportation.

(b) Section 129.14 also applies to U.S.-registered aircraft operated in common carriage by a foreign person or foreign air carrier solely outside the United States. For the purpose of this part, a foreign person is any person, not a citizen for the United States, who operates a U.S.-registered aircraft in common carriage solely outside the United States.

§ 129.11 Operations specifications.

(a) Each foreign air carrier shall conduct its operations within the United States in accordance with operations specifications issued by the Administrator under this part and in accordance with the Standards and Recommended Practices contained in part I (International Commercial Air Transport) of Annex 6 (Operation of Aircraft) to the Convention on International Civil Aviation Organization. Operations specifications shall include:

(1) Airports to be used;

(2) Routes or airways to be flown, and

(3) Such operations rules and practices as are necessary to prevent collisions between foreign aircraft and other aircraft.

(4) Registration marketings of each U.S.-registered aircraft.

(b) An application for the issue or amendment of operations specifications must be submitted in duplicate, at least 30 days before beginning operations in the United States, to the Flight Standards District Office in the area where the applicant's principal business office is located or to the Regional Flight Standards Division Manager having jurisdiction over the area to be served by the operations. If a military airport of the United States is to be used as a regular, alternate, refueling, or provisional airport, the applicant must obtain written permission to do so from the Washington

Headquarters of the military organization concerned and submit two copies of that written permission with his application. Detailed requirements governing applications for the issue or amendment of operations specifications are contained in Appendix A.

(c) No person operating under this part may operate or list on its operations specifications any airplane listed on operations specifications issued under part 125.

§ 129.13 Airworthiness and registration certificates.

(a) No foreign air carrier may operate any aircraft within the United States unless that aircraft carries current registration and airworthiness certificates issued or validated by the country of registry and displays the nationality and registration markings of that country.

(b) No foreign air carrier may operate a foreign aircraft within the United States except in accordance with the limitations on maximum certificated weights prescribed for that aircraft and that operation by the country of manufacture of the aircraft.

§ 129.14 Maintenance program and minimum equipment list requirements for U.S.-registered aircraft.

(a) Each foreign air carrier and each foreign person operating a U.S.-registered aircraft within or outside the United States in common carriage shall ensure that each aircraft is maintained in accordance with a program approved by the Administrator.

(b) No foreign air carrier or foreign person may operate a U.S.-registered aircraft with inoperable instruments or equipment unless the following conditions are met:

(1) A master minimum equipment list exists for the aircraft type.

(2) The foreign operator submits for review and approval its aircraft minimum equipment list based on the master minimum equipment list, to the FAA Flight Standards District Office having geographic responsibility for the operator. The foreign operator must show, before minimum equipment list approval can be obtained, that the maintenance procedures used under its maintenance program are adequate to support the use of its minimum equipment list.

(3) For leased aircraft maintained and operated under a U.S. operator's continuous airworthiness maintenance program and FAA-approved minimum equipment list, the foreign operator submits the U.S. operator's approved continuous airworthiness maintenance program and approved aircraft minimum equipment list to the FAA office prescribed in paragraph (b)(2) of this section for review and evaluation. The foreign operator must show that it is capable of operating under the lessor's approved maintenance program and that it is also capable of meeting the maintenance and operational requirements specified in the lessor's approved minimum equipment list.

(4) The FAA letter of authorization permitting the operator to use an approved minimum equipment list is carried aboard the aircraft. The minimum equipment list and the letter of authorization constitute a supplemental type certificate for the aircraft.

(5) The approved minimum equipment list provides for the operation of the aircraft with certain instruments and equipment in an inoperable condition.

(6) The aircraft records available to the pilot must include an entry describing the inoperable instruments and equipment.

(7) The aircraft is operated under all applicable conditions and limitations contained in the minimum equipment list and the letter authorizing the use of the list.

§ 129.15 Flight crewmember certificates.

No person may act as a flight crewmember unless he holds a current certificate or license issued or validated by the country in which that aircraft is registered, showing his ability to perform his duties connected with operating that aircraft.

§ 129.17 Radio equipment.

(a) Subject to the applicable laws and regulations governing ownership and operation of radio equipment, each foreign air carrier shall equip its aircraft with such radio equipment as is necessary to properly use the air navigation facilities, and to maintain communications with ground stations, along or adjacent to their routes in the United States.

(b) Whenever VOR navigational equipment is required by paragraph (a) of this section, at least one distance measuring equipment unit (DME), capable of receiving and indicating distance information from the VORTAC facilities to be used, must be installed on each airplane when operated at or above 24,000 feet MSL within the 50 states, and the District of Columbia.

§ 129.18 Traffic Alert and Collision Avoidance System.

(a) After December 30, 1993, no foreign air carrier may operate in the United States a turbine powered airplane that has a maximum passenger seating configuration, excluding any pilot seat, of more than 30 seats unless it is equipped with—

(1) A TCAS II traffic alert and collision avoidance system capable of coordinating with TCAS units that meet the specifications of TSO C-119, and

(2) The appropriate class of Mode S transponder.

(b) Unless otherwise authorized by the Administrator, after December 31, 1995, no foreign air carrier may operate in the United States a turbine powered airplane that has a passenger seat configuration, excluding any pilot seat, of 10 to 30 seats unless it is equipped with an approved traffic alert and collision avoidance system. If a TCAS II system is installed, it must be capable of coordinating with TCAS units that meet TSO C–119.

§ 129.19 Air traffic rules and procedures.

(a) Each pilot must be familiar with the applicable rules, the navigational and communications facilities, and the air traffic control and other procedures, of the areas to be traversed by him within the United States.

(b) Each foreign air carrier shall establish procedures to assure that each of its pilots has the knowledge required by paragraph (a)

of this section and shall check the ability of each of its pilots to operate safely according to applicable rules and procedures.

(c) Each foreign air carrier shall conform to the practices, procedures, and other requirements prescribed by the Administrator for U.S. air carriers for the areas to be operated in.

§ 129.20 Digital flight data recorders.

No person may operate an aircraft under this part that is registered in the United States unless it is equipped with one or more approved flight recorders that use a digital method of recording and storing data and a method of readily retrieving that data from the storage medium. The flight data recorder must record the parameters that would be required to be recorded if the aircraft were operated under part 121, 125, or 135 of this chapter, and must be installed by the compliance times required by those parts, as applicable to the aircraft.

§ 129.21 Control of traffic.

(a) Subject to applicable immigration laws and regulations, each foreign air carrier shall furnish the ground personnel necessary to provide for two-way voice communication between its aircraft and ground stations, at places where the Administrator finds that voice communication is necessary and that communications cannot be maintained in a language with which ground station operators are familiar.

(b) Each person furnished by a foreign air carrier under paragraph (a) of this section must be able to speak both English and the language necessary to maintain communications with the aircraft concerned, and shall assist ground personnel in directing traffic.

§ 129.23 Transport category cargo service airplanes: Increased zero fuel and landing weights.

(a) Notwithstanding the applicable structural provisions of the transport category airworthiness regulations, but subject to paragraphs (b) through (g) of this section, a foreign air carrier may operate (for cargo service only) any of the following transport category airplanes (certificated under part 4b of the Civil Air Regulations effective before March 13, 1956) at increased zero fuel and landing weights—

(1) DC-6A, DC-6B, DC-7B, and DC-7C; and

(2) L-1049 B, C, D, E, F, G, and H, and the L-1649A when modified in accordance with supplemental type certificate SA 4-1402.

(b) The zero fuel weight (maximum weight of the airplane with no disposable fuel and oil) and the structural landing weight may be increased beyond the maximum approved in full compliance with applicable rules only if the Administrator finds that—

(1) The increase is not likely to reduce seriously the structural strength;

(2) The probability of sudden fatigue failure is not noticeably increased;

(3) The flutter, deformation, and vibration characteristics do not fall below those required by applicable regulations; and

(4) All other applicable weight limitations will be met.

(c) No zero fuel weight may be increased by more than five percent, and the increase in the structural landing weight may not exceed the amount, in pounds, of the increase in zero fuel weight.

(d) Each airplane must be inspected in accordance with the approved special inspection procedures, for operations at increased weights, established and issued by the manufacturer of the type of airplane.

(e) A foreign air carrier may not operate an airplane under this section unless the country of registry requires the airplane to be operated in accordance with the passenger-carrying transport category performance operating limitations in part 121 or the equivalent.

(f) The Airplane Flight Manual for each airplane operated under this section must be appropriately revised to include the operating limitations and information needed for operation at the increased weights.

(g) Each airplane operated at an increased weight under this section must, before it is used in passenger service, be inspected under the special inspection procedures for return to passenger service established and issued by the manufacturer and approved by the Administrator.

§ 129.25 Airplane security.

(a) The following are definitions of terms used in this section:

(1) *Approved security program* means a security program required by part 108 of this title approved by the Administrator.

(2) *Certificate holder* means a person holding an FAA air carrier operating certificate or operating certificate when that person engages in scheduled passenger or public charter operations, or both.

(3) *Passenger seating configuration* means the total number of seats for which the aircraft is type certificated that can be made available for passenger use aboard a flight and includes that seat in certain airplanes which may be used by a representative of the Administrator to conduct flight checks but is available for revenue purposes on other occasions.

(4) *Private charter* means any charter for which the charterer engages the total capacity of an airplane for the carriage only of:

(i) Passengers in civil or military air movements conducted under contract with the Government of the United States or the Government of a foreign country; or

(ii) Passengers invited by the charterer, the cost of which is borne entirely by the charterer and not directly or indirectly by the individual passengers.

(5) *Public charter* means any charter that is not a private charter.

(6) *Scheduled passenger operations* means holding out to the public of air transportation service for passengers from identified air terminals at a set time announced by timetable or schedule published in a newspaper, magazine, or other advertising medium.

(7) *Sterile area* means an area to which access is controlled by the inspection of persons and property in accordance with an approved security program or a security program used in accordance with § 129.25.

(b) Each foreign air carrier landing or taking off in the United States shall adopt and use a security program, for each scheduled and public charter passenger operation, that meets the requirements of—

(1) Paragraph (c) of this section for each operation with an airplane having a passenger seating configuration of more than 60 seats;

(2) Paragraph (c) of this section for each operation that will provide deplaned passengers access, that is not controlled by a certificate holder using an approved security program or a foreign air carrier using a security program required by this section, to a sterile area;

(3) Paragraph (c) of this section for each operation with an airplane having a passenger seating configuration of more than 30 seats but less than 61 seats for which the FAA has notified the foreign air carrier that a threat exists; and

(4) Paragraph (d) of this section for each operation with an airplane having a passenger seating configuration of more than 30 seats but less than 61 seats, when the the Director of Civil Aviation Security or a designate of the Director has not notified the foreign air carrier in writing that a threat exists with respect to that operation.

(c) Each security program required by paragraph (b) (1), (2), or (3) of this section shall be designed to—

(1) Prevent or deter the carriage aboard airplanes of any explosive, incendiary device or a deadly or dangerous weapon on or about each individual's person or accessible property, except as provided in § 129.27 of this part, through screening by weapon-detecting procedures or facilities;

(2) Prohibit unauthorized access to airplanes;

(3) Ensure that baggage is accepted by a responsible agent of the foreign air carrier; and

(4) Prevent cargo and checked baggage from being loaded aboard its airplanes unless handled in accordance with the foreign air carrier's security procedures.

(d) Each security program required by paragraph (b)(4) of this section shall include the procedures used to comply with the applicable requirements of paragraphs (h)(2) and (i) of this section regarding law enforcement officers.

(e) Each foreign air carrier required to adopt and use a security program pursuant to paragraph (b) of this section shall have a security program acceptable to the Administrator. A foreign air carrier's security program is acceptable only if the Administrator finds that the security program provides passengers a level of protection similar to the level of protection provided by U.S. air carriers serving the same airports. Foreign air carriers shall employ procedures equivalent to those required of U.S. air carriers serving the same airport if the Administrator determines that such procedures are necessary to provide passengers a similar level of protection. The following procedures apply for acceptance of a security program by the Administrator:

(1) Unless otherwise authorized by the Administrator, each foreign air carrier required to have a security program by paragraph (b) of this section shall submit its program to the Administrator at

least 90 days before the intended date of passenger operations. The proposed security program must be in English unless the Administrator requests that the proposed program be submitted in the official language of the foreign air carrier's country. The Administrator will notify the foreign air carrier of the security program's acceptability, or the need to modify the proposed security program for it to be acceptable under this part, within 30 days after receiving the proposed security program. The foreign air carrier may petition the Administrator to reconsider the notice to modify the security program within 30 days after receiving a notice to modify.

(2) In the case of a security program previously found to be acceptable pursuant to this section, the Administrator may subsequently amend the security program in the interest of safety in air transportation or in air commerce and in the public interest within a specified period of time. In making such an amendment, the following procedures apply:

(i) The Administrator notifies the foreign air carrier, in writing, of a proposed amendment, fixing a period of not less than 45 days within which the foreign air carrier may submit written information, views, and arguments on the proposed amendment.

(ii) At the end of the comment period, after considering all relevant material, the Administrator notifies the foreign air carrier of any amendment to be adopted and the effective date, or rescinds the notice of proposed amendment. The foreign air carrier may petition the Administrator to reconsider the amendment, in which case the effective date of the amendment is stayed until the Administrator reconsiders the matter.

(3) If the Administrator finds that there is an emergency requiring immediate action with respect to safety in air transportation or in air commerce that makes the procedures in paragraph (e)(2) of this section impractical or contrary to the public interest, the Administrator may issue an amendment to the foreign air carrier security program, effective without stay on the date the foreign air carrier receives notice of it. In such a case, the Administrator incorporates in the notice of amendment the finding and a brief statement of the reasons for the amendment.

(4) A foreign air carrier may submit a request to the Administrator to amend its security program. The requested amendment must be filed with the Administrator at least 45 days before the date the foreign carrier proposes that the amendment would become effective, unless a shorter period is allowed by the Administrator. Within 30 days after receiving the requested amendment, the Administrator will notify the foreign air carrier whether the amendment is acceptable. The foreign air carrier may petition the Administrator to reconsider a notice of unacceptability of the requested amendment within 45 days after receiving notice of unacceptability.

(5) Each foreign air carrier required to use a security program by paragraph (b) of this section shall, upon request of the Administrator and in accordance with the applicable law, provide information regarding the implementation and operation of its security program.

(f) No foreign air carrier may land or take off an airplane in the United States, in passenger operations, after receiving a bomb or

air piracy threat against that airplane, unless the following actions are taken:

(1) If the airplane is on the ground when a bomb threat is received and the next scheduled flight of the threatened airplane is to or from a place in the United States, the foreign air carrier ensures that the pilot in command is advised to submit the airplane immediately for a security inspection and an inspection of the airplane is conducted before the next flight.

(2) If the airplane is in flight to a place in the United States when a bomb threat is received, the foreign air carrier ensures that the pilot in command is advised immediately to take the emergency action necessary under the circumstances and a security inspection of the airplane is conducted immediately after the next landing.

(3) If information is received of a bomb or air piracy threat against an airplane engaged in an operation specified in paragraph (f)(1) or (f)(2) of this section, the foreign air carrier ensures that notification of the threat is given to the appropriate authorities of the State in whose territory the airplane is located or, if in flight, the appropriate authorities of the State in whose territory the airplane is to land.

(g) Each foreign air carrier conducting an operation for which a security program is required by paragraph (b) (1), (2), or (3) of this section shall refuse to transport—

(1) Any person who does not consent to a search of his or her person in accordance with the security program; and

(2) Any property of any person who does not consent to a search or inspection of that property in accordance with the security program.

(h) At airports within the United States not governed by part 107 of this chapter, each foreign air carrier engaging in public charter passenger operations shall—

(1) When using a screening system required by paragraph (b) of this section, provide for law enforcement officers meeting the qualifications and standards, and in the number and manner, specified in part 107; and

(2) When using an airplane having a passenger seating configuration of more than 30 but less than 61 seats for which a screening system is not required by paragraph (b) of this section, arrange for law enforcement officers meeting the qualifications and standards specified in part 107 to be available to respond to an incident and provide to appropriate employees, including crewmembers, current information with respect to procedures for obtaining law enforcement assistance at that airport.

(i) At airports governed by part 107 of this chapter, each foreign air carrier engaging in scheduled passenger operations or public charter passenger operations when using an airplane with a passenger seating configuration of more than 30 but less than 61 seats for which a screening system is not required by paragraph (b) of this section shall arrange for law enforcement officers meeting the qualifications and standards specified in part 107 to be available to respond to an incident and provide to appropriate employees, including crewmembers, current information with respect to procedures for obtaining law enforcement assistance at that airport.

(j) Unless otherwise authorized by the Administrator, each foreign air carrier required to conduct screening under this part shall use procedures, facilities, and equipment for detecting explosives, incendiaries, and deadly or dangerous weapons to inspect each person entering a sterile area at each preboarding screening checkpoint in the United States for which it is responsible, and to inspect all accessible property under that person's control.

§ 129.26 Use of X-ray system.

(a) No foreign air carrier may use an X-ray system in the United States to inspect carry-on and checked articles unless:

(1) For a system manufactured prior to April 25, 1974, it meets either the guidelines issued by the Food and Drug Administration (FDA), Department of Health, Education, and Welfare and published in the FEDERAL REGISTER (38 FR 21442, August 8, 1973); or the performance standards for cabinet X-ray systems designed primarily for the inspection of carry-on baggage issued by the FDA and published in 21 CFR 1020.40 (39 FR 12985, April 10, 1974);

(2) For a system manufactured after April 24, 1974, it meets the standards for cabinet X-ray systems designed primarily for the inspection of carry-on baggage issued by the FDA and published in 21 CFR 1020.40 (39 FR 12985, April 10, 1974);

(3) A program for initial and recurrent training of operators of the system has been established, which includes training in radiation safety, the efficient use of X-ray systems, and the identification of weapons and other dangerous articles;

(4) Procedures have been established to ensure that such operator of the system will be provided with an individual personnel dosimeter (such as a film badge or thermoluminescent dosimeter). Each dosimeter used will be evaluated at the end of each calendar month, and records of operator duty time and the results of dosimeter evaluations will be maintained by the foreign air carrier; and

(5) The system meets the imaging requirements set forth in an accepted Foreign Air Carrier Security Program using the step wedge specified in American Society for Testing and Materials Standard F792-82.

(b) No foreign air carrier may use an X-ray system as specified in paragraph (a) of this section—

(1) Unless within the preceding 12 calendar months a radiation survey has been conducted which shows that the system meets the applicable performance standards in 21 CFR 1020.40 or guidelines published by the Food and Drug Administration in the FEDERAL REGISTER of August 8, 1973 (38 FR 21442);

(2) After the system is initially installed or after it has been moved from one location to another, unless a radiation survey is conducted which shows that the system meets the applicable performance standards in 21 CFR 1020.40 or guidelines published by the Food and Drug Administration in the FEDERAL REGISTER on August 8, 1973 (38 FR 21442); except that a radiation survey is not required for an X-ray system that is moved to another location, if the foreign air carrier shows that the system is so designed that it can be moved without altering its performance:

(3) That is not in full compliance with any defect notice or modification order issued for that system by the Food and Drug Admin-

istration, Department of Health, Education, and Welfare, unless that Administration has advised the FAA that the defect or failure to comply is not such as to create a significant risk or injury, including genetic injury, to any person; and

(4) Unless a sign is posted in a conspicuous place at the screening station and on the X-ray system which notifies passengers that carry-on and checked articles are being inspected by an X-ray system and advises them to remove all X-ray, scientific, and high-speed film from their carry-on and checked articles before inspection. This sign shall also advise passengers that they may request an inspection to be made of their photographic equipment and film packages without exposure to an X-ray system. If the X-ray system exposes any carry-on or checked articles to more than 1 milliroentgen during the inspection, the foreign air carrier shall post a sign which advises passengers to remove film of all kinds from their articles before inspection. If requested by passengers, their photographic equipment and film packages shall be inspected without exposure to an X-ray system.

(c) Each foreign air carrier shall maintain at least one copy of the results of the most recent radiation survey conducted under paragraph (b)(1) or (b)(2) of this section at the place where the X-ray system is in operation and shall make it available for inspection upon request by the Administrator.

(d) The American Society for Testing and Materials Standard F792-82, "Design and Use of Ionizing Radiation Equipment for the Detection of Items Prohibited in Controlled Access Areas," described in this section is incorporated by reference herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by these amendments may obtain copies of the standard from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103. In addition, a copy of the standard may be examined at the FAA Rules Docket, Docket No. 24115, 800 Independence Avenue ST., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

§ 129.27 Prohibition against carriage of weapons.

(a) No person may, while on board an aircraft being operated by a foreign air carrier in the United States, carry on or about his person a deadly or dangerous weapon, either concealed or unconcealed. This paragraph does not apply to—

(1) Officials or employees of the state of registry of the aircraft who are authorized by that state to carry arms; and

(2) Crewmembers and other persons authorized by the foreign air carrier to carry arms.

(b) No foreign air carrier may knowingly permit any passenger to carry, nor may any passenger carry, while aboard an aircraft being operated in the United States by that carrier, in checked baggage, a deadly or dangerous weapon, unless:

(1) The passenger has notified the foreign air carrier before checking the baggage that the weapon is in the baggage; and

(2) The baggage is carried in an area inaccessible to passengers.

§ 129.29 Prohibition against smoking.

No person may smoke and no operator shall permit smoking in the passenger cabin or lavatory during any scheduled airline flight segment in air transportation or intrastate air transportation which is:

(a) Between any two points within Puerto Rico, the United States Virgin Islands, the District of Columbia, or any State of the United States (other than Alaska or Hawaii) or between any two points in any one of the above-mentioned jurisdictions (other than Alaska or Hawaii);

(b) Within the State of Alaska or within the State of Hawaii; or

(c) Scheduled in the current Worldwide or North American Edition of the *Official Airline Guide* for 6 hours or less in duration and between any point listed in paragraph (a) of this section and any point in Alaska or Hawaii, or between any point in Alaska and any point in Hawaii.

§ 129.31 Airplant security.

Each foreign air carrier required to adopt and use a security program under Sec. 129.25(b) shall—

(a) Restrict the distribution, disclosure, and availability of sensitive security information, as defined in part 191 of this chapter, to persons with a need-to-know; and

(b) Refer requests for sensitive security information by other persons to the Assistant Administrator for Civil Aviation Security.

APPENDIX A TO PART 129—APPLICATION FOR OPERATIONS SPECIFICATIONS BY FOREIGN AIR CARRIERS

(a) *General*. Each application must be executed by an authorized officer or employee of the applicant having knowledge of the matter set forth therein, and must have attached thereto two copies of the appropriate written authority issued to that officer or employee by the applicant. Negotiations for permission to use airports under U.S. military jurisdiction is effected through the respective embassy of the foreign government and the United States Department of State.

(b) *Format of application.* The following outline must be followed in completing the information to be submitted in the application.

APPLICATION FOR FOREIGN AIR CARRIER OPERATIONS SPECIFICATIONS

(OUTLINE)

In accordance with the Federal Aviation Act of 1958 (49 U.S.C. 1372) and part 129 of the Federal Air Regulations, application is hereby made for the issuance of Foreign Operations Specifications.

Give exact name and full post office address of applicant.

Give the name, title, and post office address (within the United States if possible) of the official or employee to whom correspondence in regard to the application is to be addressed.

Unless otherwise specified, the applicant must submit the following information only with respect to those parts of his proposed operations that will be conducted within the United States.

SECTION I. *Operations*. State whether the operation proposed is day or night, visual flight rules, instrument flight rules, or a particular combination thereof.

SEC. II. *Operational plans*. State the route by which entry will be made into the United States, and the route to be flown therein.

SEC. III. A. *Route*. Submit a map suitable for aerial navigation upon which is indicated the exact geographical track of the proposed route from the last point of foreign departure to the United States terminal, showing the regular terminal, and alternate airports, and radio navigational facilities. This material will be indicated in a manner that will facilitate identification. The applicant may use any method that will clearly distinguish the information, such as different colors, different types of lines, etc. For example, if different colors are used, the identification will be accomplished as follows:

1. Regular route: Black.
2. Regular terminal airport: Green circle.
3. Alternate airports: Orange circle.
4. The location of radio navigational facilities which will be used in connection with the proposed operation, indicating the type of facility to be used, such as radio range ADF, VOR, etc.

B. *Airports*. Submit the following information with regard to each regular terminal and alternate to be used in the conduct of the proposed operation:

1. Name of airport or landing area.
2. Location (direction distance to and name of nearest city or town).

SEC. IV. *Radio facilities: Communications.* List all ground radio communication facilities to be used by the applicant in the conduct of the proposed operations within the United States and over that portion of the route between the last point of foreign departure and the United States.

SEC. V. *Aircraft*. Submit the following information in regard to each type and model aircraft to be used.

A. *Aircraft.*

1. Manufacturer and model number.
2. State of origin.
3. Single-engine or multiengine. If multiengine, indicate number of engines.
4. What is the maximum takeoff and landing weight to be used for each type of aircraft?
5. Registration markings of each U.S.-registered aircraft.

B. *Aircraft Radio.* List aircraft radio equipment necessary for instrument operation within the United States.

C. *Licensing.* State name of country by whom aircraft are certificated.

SEC. VI. *Airmen.* List the following information with respect to airmen to be employed in the proposed operation within the United States.

A. State the type and class of certificate held by each flight crewmember.

B. State whether or not pilot personnel have received training in the use of navigational facilities necessary for en route operation

and instrument letdowns along or adjacent to the route to be flown within the United States.

C. State whether or not personnel are familiar with those parts of the Federal Air Regulations pertaining to the conduct of foreign air carrier operations within the United States.

D. State whether pilot personnel are able to speak and understand the English language to a degree necessary to enable them to properly communicate with Airport Traffic Control Towers and Airway Radio Communication Stations using radiotelephone communications.

SEC. VII. *Dispatchers.*

A. Describe briefly the dispatch organization which you propose to set up for air carrier operations within the United States.

B. State whether or not the dispatching personnel are familiar with the rules and regulations prescribed by the Federal Air Regulations governing air carrier operations.

C. Are dispatching personnel able to read and write the English language to a degree necessary to properly dispatch flights within the United States?

D. Are dispatching personnel certificated by the country of origin?

SEC. VIII. *Additional Data.*

A. Furnish such additional information and substantiating data as may serve to expedite the issuance of the operations specifications.

B. Each application shall be concluded with a statement as follows:

I certify that the above statements are true.

Signed this _____ day of _____ 19 ____

_____ (Name of Applicant)

By _____

(Name of person duly authorized to execute this application on behalf of the applicant.)

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1. Office of the President

a. Presidential Decision Directives—PDD

(1) Establishing the Office of the National Coordinator for Security, Infrastructure Protection and Counter-Terrorism (PDD-62)

The White House
Office of the Press Secretary
May 22, 1998

FACT SHEET

COMBATING TERRORISM: PRESIDENTIAL DECISION DIRECTIVE 62

Since he took office, President Clinton has made the fight against terrorism a top national security objective. The President has worked to deepen our cooperation with our friends and allies abroad, strengthened law enforcement's counterterrorism tools and improved security on airplanes and at airports. These efforts have paid off as major terrorist attacks have been foiled and more terrorists have been apprehended, tried and given severe prison terms.

Yet America's unrivaled military superiority means that potential enemies—whether nations or terrorist groups—that choose to attack us will be more likely to resort to terror instead of conventional military assault. Moreover, easier access to sophisticated technology means that the destructive power available to terrorists is greater than ever. Adversaries may thus be tempted to use unconventional tools, such as weapons of mass destruction, to target our cities and disrupt the operations of our government. They may try to attack our economy and critical infrastructure using advanced computer technology.

President Clinton is determined that in the coming century, we will be capable of deterring and preventing such terrorist attacks. The President is convinced that we must also have the ability to limit the damage and manage the consequences should such an attack occur.

To meet these challenges, President Clinton signed Presidential Decision Directive 62. This Directive creates a new and more systematic approach to fighting the terrorist threat of the next century. It reinforces the mission of the many U.S. agencies charged with roles in defeating terrorism; it also codifies and clarifies their activities in the wide range of U.S. counter-terrorism programs, from apprehension and prosecution of terrorists to increasing transportation security, enhancing response capabilities and protecting the computer-based systems that lie at the heart of America's economy. The Directive will help achieve the President's goal

of ensuring that we meet the threat of terrorism in the 21st century with the same rigor that we have met military threats in this century.

THE NATIONAL COORDINATOR

To achieve this new level of integration in the fight against terror, PDD–62 establishes the Office of the National Coordinator for Security, Infrastructure Protection and Counter-Terrorism. The National Coordinator will oversee the broad variety of relevant polices and programs including such areas as counter-terrorism, protection of critical infrastructure, preparedness and consequence management for weapons of mass destruction. The National Coordinator will work within the National Security Council, report to the President through the Assistant to the President for National Security Affairs and produce for him an annual Security Preparedness Report. The National Coordinator will also provide advice regarding budgets for counter-terror programs and lead in the development of guidelines that might be needed for crisis management.

(2) U.S. Policy on Counterterrorism (PDD-39)

Partial text of a declassified copy of Presidential Decision Directive (PDD) 39 as released by the National Security Council, January 24, 1997

THE WHITE HOUSE

WASHINGTON

JUNE 21, 1995

[Classified text omitted]

MEMORANDUM FOR:
THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF THE TREASURY
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
THE SECRETARY OF HEALTH AND HUMAN SERVICES
THE SECRETARY OF TRANSPORTATION
THE SECRETARY OF ENERGY
ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY
ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS
DIRECTOR OF CENTRAL INTELLIGENCE
DIRECTOR, UNITED STATES INFORMATION AGENCY
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
DIRECTOR, FEDERAL BUREAU OF INVESTIGATION
DIRECTOR, FEDERAL EMERGENCY MANAGEMENT AGENCY

SUBJECT: U.S. Policy on Counterterrorism (U)

It is the policy of the United States to deter, defeat and respond vigorously to all terrorist attacks on our territory and against our citizens, or facilities, whether they occur domestically, in international waters or airspace or on foreign territory. The United States regards all such terrorism as a potential threat to national security as well as a criminal act and will apply all appropriate means to combat it. In doing so, the U.S. shall pursue vigorously efforts to deter and preempt, apprehend and prosecute, or assist other governments to prosecute, individuals who perpetrate or plan to perpetrate such attacks. (U)

We shall work closely with friendly governments in carrying out our counterterrorism policy and will support Allied and friendly governments in combating terrorist threats against them. (U)

Furthermore, the United States shall seek to identify groups or states that sponsor or support such terrorists, isolate them and extract a heavy price for their actions. (U)

It is the policy of the United States not to make concessions to terrorists. (U)

To ensure that the United States is prepared to combat domestic and international terrorism in all its forms, I direct the following steps be taken. (U)

1. Reducing our Vulnerabilities

The United States shall reduce its vulnerabilities to terrorism, at home and abroad.

It shall be the responsibility of all Department and Agency heads to ensure that their personnel and facilities, and the people and facilities under their jurisdiction, are fully protected against terrorism. With regard to ensuring security:

—The Attorney General, as the chief law enforcement officer, shall chair a Cabinet Committee to review the vulnerability to terrorism of government facilities in the United States and critical national infrastructure and make recommendations to me and the appropriate Cabinet member or Agency head;

—The Director, FBI, as head of the investigative agency for terrorism, shall reduce vulnerabilities by an expanded program of counterterrorism;

—The Secretary of State shall reduce vulnerabilities affecting the security of all personnel and facilities at non-military U.S. Government installations abroad and affecting the general safety of American citizens abroad);

—The Secretary of Defense shall reduce vulnerabilities affecting the security of all U.S. military personnel (except those assigned to diplomatic missions) and facilities);

—The Secretary of Transportation shall reduce vulnerabilities affecting the security of all airports in the U.S. and all aircraft and passengers and all maritime shipping under U.S. flag or registration or operating within the territory of the United States and shall coordinate security measures for rail, highway, mass transit and pipeline facilities);

—The Secretary of State and the Attorney General, in addition to the latter's overall responsibilities as the chief law enforcement official, shall use all legal means available to exclude from the United States persons who pose a terrorist threat and deport or otherwise remove from the United States any such aliens;

—The Secretary of the Treasury shall reduce vulnerabilities by preventing unlawful traffic in firearms and explosives, by protecting the President and other officials against terrorist attack and through enforcement of laws controlling movement of assets, and export from or import into the United States of goods and services, subject to jurisdiction of the Department of the Treasury;

—The Director, Central Intelligence shall lead the efforts of the Intelligence Community to reduce U.S. vulnerabilities to international terrorism through an aggressive program of foreign

intelligence collection, analysis, counterintelligence and covert action in accordance with the National Security Act of 1947 and E.O. 12333. (U)

2. DETERRING TERRORISM

The United States shall seek to deter terrorism through a clear public position that our policies will not be affected by terrorist acts and that we will act vigorously to deal with terrorists and their sponsors. Our actions will reduce the capabilities and support available to terrorists. (U)

[Classified text omitted]

Within the United States, we shall vigorously apply U.S. laws and seek new legislation to prevent terrorist groups from operating in the United States or using it as a base for recruitment, training, fund raising or other related activities. (U)

- Return of Indicted Terrorists to the U.S. for Prosecution: We shall vigorously apply extraterritorial statutes to counter acts of terrorism and apprehend terrorists outside of the United States. When terrorists wanted for violation of U.S. law are at large overseas, their return for prosecution shall be a matter of the highest priority and shall be a continuing central issue in bilateral relations with any state that harbors or assists them. Where we do not have adequate arrangements, the Departments of State and Justice shall work to resolve the problem, where possible and appropriate, through negotiation and conclusion of new extradition treaties. (U)

[Classified text omitted]

- State Support and Sponsorship: Foreign governments assist terrorists in a variety of ways. (U)

[Classified text omitted]

C. Enhancing Counterterrorism Capabilities: The Secretaries of State, Defense, Treasury, Energy and Transportation, the Attorney General, the Director of Central Intelligence and the Director, FBI shall ensure that their organizations' counterterrorism capabilities within their present areas of responsibility are well managed, funded and exercised. (U)

[Classified text omitted]

3. RESPONDING TO TERRORISM

We shall have the ability to respond rapidly and decisively to terrorism directed against us wherever it occurs, to protect Americans, arrest or defeat the perpetrators, respond with all appropriate instruments against the sponsoring organizations and governments and provide recovery relief to victims, as permitted by law. (U)

[Classified text omitted]

D. Lead Agency Responsibilities: This directive validates and reaffirms existing lead agency responsibilities for all facets of the United States counterterrorism effort. Lead agencies are those that have the most direct role in and responsibility for implementation of U.S. counterterrorism policy, as set forth in this Directive. Lead agencies will normally be designated as follows: (U)

The Department of State is the lead agency for international terrorist incidents that take place outside of U.S. territory, other than incidents on U.S. flag vessels in international waters. The State Department shall act through U.S. ambassadors as the on-scene coordinators for the U.S. Government. Once military force has been directed, however, the National Command Authority shall exercise control of the U.S. military force. (U)

* * * * * * *

F. Interagency Support: To ensure that the full range of necessary expertise and capabilities are available to the on-scene coordinator, there shall be a rapidly deployable interagency Emergency Support Team (EST). The State Department shall be responsible for leading and managing the Foreign Emergency Support Team (FEST) in foreign incidents. The FBI shall be responsible for the Domestic Emergency Support Team (DEST) in domestic incidents. The DEST shall consist only of those agencies needed to respond to the specific requirements of the incident. Membership in the two teams shall include modules for specific types of incidents such as nuclear, biological or chemical threats. The Defense Department shall provide timely transportation for ESTs. (U)

G. Transportation-related terrorism: The Federal Aviation Administration has exclusive responsibility in instances of air piracy for the coordination of any law enforcement activity affecting the safety of persons aboard aircraft within the special aircraft jurisdiction of the UPS. as defined in public law. The Department of Justice, acting through the FBI, shall establish and maintain procedures, in coordination with the Departments of State, Defense, and Transportation, to ensure the efficient resolution of terrorist hijackings. These procedures shall be based on the principle of lead agency responsibility for command, control and rules of engagement. (U)

H. Consequence Management: The Director of the Federal Emergency Management Agency shall ensure that the Federal Response Plan is adequate to respond to the consequences of terrorism di-

rected against large populations in the United States, including terrorism involving weapons of mass destruction.

FEMA shall ensure that States' response plans are adequate and their capabilities are tested. The State Department shall develop a plan with the Office of Foreign Disaster Assistance and DOD to Provide assistance to foreign populations so victimized. (U)

[Classified text omitted]

K. Costs: Agencies directed to participate in the resolution of terrorist incidents or conduct of counterterrorist operations shall bear the costs of their participation, unless otherwise directed by me. (U)

4. WEAPONS OF MASS DESTRUCTION

The United States shall give the highest priority to developing effective capabilities to detect, prevent, defeat and manage the consequences of nuclear, biological or chemical (NBC) materials or weapons use by terrorists. (U)

The acquisition of weapons of mass destruction by a terrorist group, through theft or manufacture, is unacceptable. There is no higher priority than preventing the acquisition of this capability or removing this capability from terrorist groups potentially opposed to the U.S. (U)

[Classified text omitted]

Attachment Tab A Interagency Groups

[Classified text omitted]

Unclassified FEMA Abstract on PDD-39 [1]

Appendix C to a hearing on security in cyberspace held by the Senate Governmental Affairs Committee, June 5, 1996

SECURITY IN CYBERSPACE

U.S. SENATE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

(MINORITY STAFF STATEMENT)

JUNE 5, 1996

APPENDIX C

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20504

March 8, 1996

MEMORANDUM FOR MR. JOHN F. SOPKO
Minority Deputy Chief Counsel
Permanent Subcommittee on Investigations
Senate Governmental Affairs Committee

SUBJECT: Senator Nunn's Request for Copy of FEMA Abstract on PDD–39

Pursuant to Senator Nunn's request, enclosed for your information is a copy of the NSC approved unclassified FEMA abstract on PDD–39.

All requests for copies of, access to or information about Presidential Decision Directives (PDD) should be sent directly to the National Security Council.

Andrew D. Sens
Executive Secretary
Attachment
Tab A—Unclassified FEMA Abstract on PDD–39
cc: Ms. Catherine H. Light Director
Office of National Security Coordination Federal Emergency Management Agency

U.S. POLICY ON COUNTERTERRORISM

1. General. Terrorism is both a threat to our national security as well as a criminal act. The Administration has stated that it is the policy of the United States to use all appropriate means to deter, defeat and respond to all terrorist attacks on our territory and resources, both people and facilities, wherever they occur. In support of these efforts, the United States will:

- Employ efforts to deter, preempt, apprehend and prosecute terrorists.
- Work closely with other governments to carry out our counterterrorism policy and combat terrorist threats against them.
- Identify sponsors of terrorists, isolate them, and ensure they pay for their actions.
- Make no concessions to terrorists

2. Measures to Combat Terrorism. To ensure that the United States is prepared to combat terrorism in all its forms, a number of measures have been directed. These include reducing vulnerabilities to terrorism, deterring and responding to terrorist acts, and having capabilities to prevent and manage the consequences of terrorist use of nuclear, biological and chemical (NBC) weapons, including those of mass destruction.

[1] Document from the Web site of the Federation of American Scientists at http://www.fas.org/irp/offdocs/pdd39—fema.htm.

a. Reduce Vulnerabilities. In order to reduce our vulnerabilities to terrorism, both at home and abroad, all department/agency heads have been directed to ensure that their personnel and facilities are fully protected against terrorism. Specific efforts that will be conducted to ensure our security against terrorist acts include the following:

- Review the vulnerability of government facilities and critical national infrastructure.
- Expand the program of counterterrorism.
- Reduce vulnerabilities affecting civilian personnel/facilities abroad and military personnel/facilities.
- Reduce vulnerabilities affecting U.S. airports, aircraft/passengers and shipping, and provide appropriate security measures for other modes of transportation.
- Exclude/deport persons who pose a terrorist threat
- Prevent unlawful traffic in firearms and explosives, and protect the President and other officials against terrorist attack.
- Reduce U.S. vulnerabilities to international terrorism through intelligence collection/analysis, counterintelligence and covert action.

b. Deter. To deter terrorism, it is necessary to provide a clear public position that our policies will not be affected by terrorist acts and we will vigorously deal with terrorist/sponsors to reduce terrorist capabilities and support. In this regard, we must make it clear that we will not allow terrorism to succeed and that the pursuit, arrest, and prosecution of terrorists is of the highest priority. Our goals include the disruption of terrorist-sponsored activity including termination of financial support, arrest and punishment of terrorists as criminals, application of U.S. laws and new legislation to prevent terrorist groups from operating in the United States, and application of extraterritorial statutes to counter acts of terrorism and apprehend terrorists outside of the United States. Return of terrorists overseas, who are wanted for violation of U.S. law, is of the highest priority and a central issue in bilateral relations with any state that harbors or assists them.

c. Respond. To respond to terrorism, we must have a rapid and decisive capability to protect Americans, defeat or arrest terrorists, respond against terrorist sponsors, and provide relief to the victims of terrorists. The goal during the immediate response phase of an incident is to terminate terrorist attacks so that the terrorists do not accomplish their objectives or maintain their freedom, while seeking to minimize damage and loss of life and provide emergency assistance. After an incident has occurred, a rapidly deployable interagency Emergency Support Team (EST) will provide required capabilities on scene: a Foreign Emergency Support Team (FEST) for foreign incidents and a Domestic Emergency Support Team (DEST) for domestic incidents. DEST membership will be limited to those agencies required to respond to the specific incident. Both teams will include elements for specific types of incidents such as nuclear, biological or chemical threats.

The Director, FEMA, will ensure that the Federal Response Plan is adequate for consequence management activities in response to terrorist attacks against large U.S. populations, including those

where weapons of mass destruction are involved. FEMA will also ensure that State response plans and capabilities are adequate and tested. FEMA, supported by all Federal Response Plan signatories, will assume the Lead Agency role for consequence management in Washington, D.C. and on scene. If large scale casualties and infrastructure damage occur, the President may appoint a Personal Representative for consequence management as the on scene Federal authority during recovery. A roster of senior and former government officials willing to perform these functions will be created and the rostered individuals will be provided training and information necessary to allow them to be called upon on short notice.

Agencies will bear the costs of their participation in terrorist incidents and counterterrorist operations, unless otherwise directed.

d. NBC Consequence Management. The development of effective capabilities for preventing and managing the consequences of terrorist use of nuclear, biological or chemical (NBC) materials or weapons is of the highest priority. Terrorist acquisition of weapons of mass destruction is not acceptable and there is no higher priority than preventing the acquisition of such materials/weapons or removing this capability from terrorist groups. FEMA will review the Federal Response Plan on an urgent basis, in coordination with supporting agencies, to determine its adequacy in responding to an NBC-related terrorist incident; identify and remedy any shortfalls in stockpiles, capabilities or training; and report on the status of these efforts in 180 days.

b. Terrorism Incident Annex to the Federal Response Plan Implementing PDD-39

Federal Emergency Management Agency

TERRORISM INCIDENT ANNEX

Signatory Agencies: Department of Defense, Department of Energy, Department of Health and Human Services, Department of Justice, Federal Bureau of Investigation, Environmental Protection Agency, Federal Emergency Management Agency.

I. INTRODUCTION

Presidential Decision Directive 39 (PDD–39), U.S. Policy on Counter Terrorism, establishes policy to reduce the Nation's vulnerability to terrorism, deter and respond to terrorism, and strengthen capabilities to detect, prevent, defeat, and manage the consequences of terrorist use of weapons of mass destruction (WMD). PDD–39 states that the United States will have the ability to respond rapidly and decisively to terrorism directed against Americans wherever it occurs, arrest or defeat the perpetrators using all appropriate instruments against the sponsoring organizations and governments, and provide recovery relief to victims, as permitted by law.

Responding to terrorism involves instruments that provide crisis management and consequence management. "Crisis management" refers to measures to identify, acquire, and plan the use of resources needed to anticipate, prevent, and/or resolve a threat or act of terrorism. The Federal Government exercises primary authority to prevent, preempt, and terminate threats or acts of terrorism and to apprehend and prosecute the perpetrators; State and local governments provide assistance as required. Crisis management is predominantly a law enforcement response. "Consequence management" refers to measures to protect public health and safety, restore essential government services, and provide emergency relief to governments, businesses, and individuals affected by the consequences of terrorism. State and local governments exercise primary authority to respond to the consequences of terrorism; the Federal Government provides assistance as required. Consequence management is generally a multi function response coordinated by emergency management.

Based on the situation, a Federal crisis management response may be supported by technical operations, and by Federal consequence management, which may operate concurrently. "Technical operations" include actions to identify, assess, dismantle, transfer, dispose of, or decontaminate personnel and property exposed to explosive ordnance or WMD.

A. PURPOSE

The purpose of this annex is to ensure that the Federal Response Plan (FRP) is adequate to respond to the consequences of terrorism within the United States, including terrorism involving WMD. This annex:

1. Describes crisis management. Guidance is provided in other Federal emergency operations plans;

2. Defines the policies and structures to coordinate crisis management with consequence management; and

3. Defines consequence management, which uses the FRP process and structure, supplemented as necessary by resources normally activated through other Federal emergency operations plans.

B. SCOPE

This annex:

1. Applies to all threats or acts of terrorism within the United States that the White House determines require a response under the FRP;

2. Applies to all Federal departments and agencies that may be directed to respond to the consequences of a threat or act of terrorism within the United States; and

3. Builds upon the process and structure of the FRP by addressing unique policies, situations, operating concepts, responsibilities, and funding guidelines required for response to the consequences of terrorism.

II. POLICIES

A. PDD–39 validates and reaffirms existing lead agency responsibilities for all facets of the U.S. counter terrorism effort.

B. The Department of Justice is designated as the lead agency for threats or acts of terrorism within U.S. territory. The Department of justice assigns lead responsibility for operational response to the Federal Bureau of investigation (FBI). Within that role, the FBI operates as the on-scene manager for the federal Government. It is FBI policy that crisis management will involve only those federal agencies requested by the FBI to provide expert guidance and/or assistance, as described in the PDD–39 Domestic Deployment Guidelines (classified) and the FBI WMD Incident Contingency Plan.

C. The Federal Emergency Management Agency (FEMA)is designated as the lead agency for consequence management within U.S. territory.FEMA retains authority and responsibility to act as the lead agency for consequence management throughout the Federal response.It is FEMA policy to use FRP structures coordinate all Federal assistance to State and local governments for consequence management.

D. To ensure that there is one overall Lead Federal Agency (LFA), PDD–39 directs FEMA to support the Department of Justice (as delegated to the FBI) until the Attorney General transfers the overall LFA role to FEMA. FEMA supports the overall LFA as permitted by law.

III. Situation

A. CONDITIONS

1. FBI assessment of a potential or credible threat of terrorism within the United States may cause the FBI to direct other members of the law enforcement community and to coordinate with other Federal agencies to implement a pre-release response.

a. FBI requirements for assistance from other Federal agencies will be coordinated through the Attorney General and the President, with coordination of National Security Council (NSC) groups as warranted.

b. FEMA will advise and assist the FBI and coordinate with the affected state and local emergency management authorities to identify potential consequence management requirements and with Federal consequence management agencies to increase readiness.

2. An act that occurs without warning and produces major consequences may cause FEMA to implement a post-release consequence management response under the FRP. FEMA will exercise its authorities and provide concurrent support to the FBI as appropriate to the specific incident.

B. PLANNING ASSUMPTIONS

1. No single agency at the local, State, Federal, or private-sector level possesses the authority and expertise to act unilaterally on many difficult issues that may arise in response to a threat or act of terrorism, particularly if WMD are involved.

2. An act of terrorism, particularly an act directed against a large population center within the United States involving WMD, may produce major consequences that would overwhelm the capabilities of many local and State governments almost immediately.

3. Major consequences involving WMD may overwhelm existing Federal capabilities as well, particularly if multiple locations are affected.

4. Local, State, and Federal responders will define working perimeters that may overlap. Perimeters may be used to control access to the area, target public information messages, assign operational sectors among responding organizations, and assess potential effects on the population and the environment. Control of these perimeters may be enforced by different authorities, which will impede the overall response if adequate coordination is not established.

5. If appropriate personal protective equipment is not available, entry into a contaminated area (i.e., a hot zone) may be delayed until the material dissipates to levels that are safe for emergency response personnel. Responders should be prepared for secondary devices.

6. Operations may involve geographic areas in a single State or multiple States, involving responsible FBI Field Offices and Regional Offices as appropriate. The FBI and FEMA will establish coordination relationships as appropriate, based on the geographic areas involved.

7. Operations may involve geographic areas that spread across U.S. boundaries. The Department of State is responsible for coordination with foreign governments.

IV. Concept of Operations

A. Crisis Management [1]

1. PDD–39 reaffirms the FBI's Federal lead responsibility for crisis management response to threats or acts of terrorism that take place within U.S. territory or in international waters and that do not involve the flag vessel of a foreign country. The FBI provides a graduated, flexible response to a range of incidents, including:

a. A credible threat, which may be presented in verbal, written,intelligence-based, or other form;

b. An act of terrorism that exceeds the local FBI field division's capability to resolve;

c. The confirmed presence of an explosive device or WMD capable of causing a significant destructive event, prior to actual injury or property loss;

d. The detonation of an explosive device, utilization of a WMD, or other destructive event, with or without warning, that results in limited injury or death; and

e. The detonation of an explosive device, utilization of a WMD, or other destructive event, with or without warning, that results in substantial injury or death.

2. The FBI notifies FEMA and other Federal agencies providing direct support to the FBI of a credible threat of terrorism. The FBI initiates a threat assessment process that involves close coordination with Federal agencies with technical expertise, in order to determine the viability of the threat from a technical as well as tactical and behavioral standpoints.

3. The FBI provides initial notification to law enforcement authorities within the affected State of a threat or occurrence that the FBI confirms as an act of terrorism.

4. If warranted, the FBI implements an FBI response and simultaneously advises the Attorney General, who notifies the President and NSC groups as warranted, that a Federal crisis management response is required. If authorized, the FBI activates multiagency crisis management structures at FBI Headquarters, the responsible FBI Field Office, and the incident scene. Federal agencies requested by the FBI, including FEMA, will deploy a representative(s) to the FBI Headquarters Strategic Information and Operations Center (SIOC) and take other actions as necessary and appropriate to support crisis management. (The FBI provides guidance on the crisis management response in the FBI WMD Incident Contingency Plan.)

5. If the threat involves WMD, the FBI Director may recommend to the Attorney General, who notifies the President and NSC groups as warranted, to deploy a Domestic Emergency Support Team (DEST). The mission of the DEST is to provide expert advice and assistance to the FBI On-Scene Commander (OSC) related to

[1] Source: FBI, National Security Division, Domestic Terrorism/Counterterrorism Planning Section.

the capabilities of the DEST agencies and to coordinate follow-on response assets. When a Joint Operations Center (JOC) is formed, DEST components merge into the JOC structure as appropriate. (The FBI provides guidance on the DEST in the PDD–39 Domestic Deployment Guidelines (classified).)

6. During crisis management, the FBI coordinates closely with local law enforcement authorities to provide a successful law enforcement resolution to the incident. The FBI also coordinates with other Federal authorities, including FEMA.

7. The FBI Field Office responsible for the incident site modifies its Command Post to function as a JOC and establishes a Joint Information Center (JIC). The JOC structure includes the following standard groups: Command, Operations, Support, and Consequence Management. Representation within the JOC includes some Federal, State, and local agencies.

8. The JOC Command Group plays an important role in ensuring coordination of Federal crisis management and consequence management actions. Issues arising from the response that affect multiple agency authorities and responsibilities will be addressed by the FBI OSC and the other members of the JOC Command Group, who are all working in consultation with other local, State, and Federal representatives. While the FBI OSC retains authority to make Federal crisis management decisions at all times, operational decisions are made cooperatively to the greatest extent possible. The FBI OSC and the Senior FEMA Official at the JOC will provide, or obtain from higher authority, an immediate resolution of conflicts in priorities for allocation of critical Federal resources (such as airlift or technical operations assets) between the crisis management and the consequence management response.

9. A FEMA representative coordinates the actions of the JOC Consequence Management Group, expedites activation of a Federal consequence management response should it become necessary, and works with an FBI representative who serves as the liaison between the Consequence Management Group and the FBI OSC. The JOC Consequence Management Group monitors the crisis management response in order to advise on decisions that may have implications for consequence management, and to provide continuity should a Federal consequence management response become necessary. Coordination will also be achieved through the exchange of operational reports on the incident. Because reports prepared by the FBI are "law enforcement sensitive," FEMA representatives with access to the reports will review them, according to standard procedure, in order to identify and forward information to Emergency Support Function (ESF) #5—Information and Planning that may affect operational priorities and action plans for consequence management.

B. CONSEQUENCE MANAGEMENT

1. Pre-Release

a. FEMA receives initial notification from the FBI of a credible threat of terrorism. Based on the circumstances, FEMA Headquarters and the responsible FEMA region(s) may implement a

standard procedure to alert involved FEMA officials and Federal agencies supporting consequence management.

b. FEMA deploys representatives with the DEST and deploys additional staff for the JOC, as required, in order to provide support to the FBI regarding consequence management. FEMA determines the appropriate agencies to staff the JOC Consequence Management Group and advises the FBI. With FBI concurrence, FEMA notifies consequence management agencies to request that they deploy representatives to the JOC. Representatives may be requested for the JOC Command Group, the JOC Consequence Management Group, and the JIC.

c. When warranted, FEMA will consult immediately with the Governor's office and the White House in order to determine if Federal assistance is required and if FEMA is permitted to use authorities of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to mission-assign Federal consequence management agencies to pre-deploy assets to lessen or avert the threat of a catastrophe. These actions will involve appropriate notification and coordination with the FBI, as the overall LFA.

d. FEMA Headquarters may activate an Emergency Support Team (EST) and may convene an executive-level meeting of the Catastrophic Disaster Response Group (CDRG). When FEMA activates the EST, FEMA will request FBI Headquarters to provide liaison. The responsible FEMA region(s) may activate a Regional Operations Center (ROC) and deploy a representative(s) to the affected State(s). When the responsible FEMA region(s) activates a ROC, the region(s) will notify the responsible FBI Field Office(s) to request a liaison.

2. Post-Release

a. If an incident involves a transition from joint (crisis/consequence) response to a threat of terrorism to joint response to an act of terrorism, then consequence management agencies providing advice and assistance at the JOC pre-release will reduce their presence at the JOC post-release as necessary to fulfill their consequence management responsibilities. The Senior FEMA Official and staff will remain at the JOC until the FBI and FEMA agree that liaison is no longer required.

b. If an incident occurs without warning that produces major consequences and appears to be caused by an act of terrorism, then FEMA and the FBI will initiate consequence management and crisis management actions concurrently. FEMA will consult immediately with the Governor's office and the White House to determine if Federal assistance is required and if FEMA is permitted to use the authorities of the Stafford Act to mission-assign Federal agencies to support a consequence management response. If the President directs FEMA to implement a Federal consequence management response, then FEMA will support the FBI as required and will lead a concurrent Federal consequence management response.

c. The overall LFA (either the FBI or FEMA when the Attorney General transfers the overall LFA role to FEMA) will establish a Joint Information Center in the field, under the operational control of the overall LFA's Public Information Officer, as the focal point

for the coordination and provision of information to the public and media concerning the Federal response to the emergency. Throughout the response, agencies will continue to coordinate incident-related information through the JIC. FEMA and the FBI will ensure that appropriate spokespersons provide information concerning the crisis management and consequent management responses. Before a JIC is activated, public affairs offices of responding Federal agencies will coordinate the release of information through the FBI SIOC.

d. During the consequence management response, the FBI provides liaison to either the ROC Director or the Federal Coordinating Officer (FCO) in the field, and a liaison to the EST Director at FEMA Headquarters. While the ROC Director or FCO retains authority to make Federal consequence management decisions at all times, operational decisions are made cooperatively to the greatest extent possible.

e. As described previously, resolution of conflicts between the crisis management and consequence management responses will be provided by the Senior FEMA Official and the FBI OSC at the JOC or, as necessary, will be obtained from higher authority. Operational reports will continue to be exchanged. The FBI liaisons will remain at the EST and the ROC or DFO until FEMA and the FBI agree that a liaison is no longer required.

3. Disengagement

a. If an act of terrorism does not occur, the consequence management response disengages when the FEMA Director, in consultation with the FBI Director, directs FEMA Headquarters and the responsible region(s) to issue a cancellation notification by standard procedure to appropriate FEMA officials and FRP agencies. FRP agencies disengage according to standard procedure.

b. If an act of terrorism occurs that results in major consequences, each FRP component (the EST, CDRG, ROC, and DFO if necessary) disengages at the appropriate time according to standard procedure. Following FRP disengagement, operations by individual Federal agencies or by multiple Federal agencies under other Federal plans may continue, in order to support the affected State and local governments with long-term hazard monitoring, environmental decontamination, and site restoration (cleanup).

V. Responsibilities

A. DEPARTMENT OF JUSTICE

PDD–39 validates and reaffirms existing lead agency responsibilities for all facets of the U.S. counterterrorism effort. The Department of Justice is designated as the overall LFA for threats of acts of terrorism that take place within the United States until the Attorney General transfers the overall LFA role to FEMA. The Department of Justice delegates this overall LFA role to the FBI for the operational response. On behalf of the Department of Justice, the FBI will:

1. Consult with and advise the White House, through the Attorney General, on policy matters concerning the overall response;
2. Designate and establish a JOC in the field;

3. Appoint an FBI OSC to manage and coordinate the Federal operational response (crisis management and consequence management). As necessary, the FBI OSC will convene and chair meetings of operational decision makers representing lead State and local crisis management agencies, FEMA, and lead State and local consequence management agencies in order to provide an initial assessment of the situation, develop an action plan, monitor and update operational priorities, and ensure that the overall response (crisis management and consequence management) is consistent with U.S. law and achieves the policy objectives outlined in PDD–39. The FBI and FEMA may involve supporting Federal agencies as necessary; and

4. Issue and track the status of actions assigned by the overall LFA.

B. FEDERAL BUREAU OF INVESTIGATION

Under PDD–39, the FBI supports the overall LFA by operating as the lead agency for crisis management. The FBI will:

1. Determine when a threat of an act of terrorism warrants consultation with the White House, through the Attorney General;

2. Advise the White House, through the Attorney General, when the FBI requires assistance for a Federal crisis management response, in accordance with the PDD–39 Domestic Deployment Guidelines;

3. Work with FEMA to establish and operate a JIC in the field as the focal point for information to the public and the media concerning the Federal response to the emergency;

4. Establish the primary Federal operations centers for the crisis management response in the field and Washington, DC;

5. Appoint an FBI OSC (or subordinate official) to manage and coordinate the crisis management response. Within this role, the FBI OSC will convene meetings with operational decision makers representing Federal, State, and local law enforcement and technical support agencies, as appropriate, to formulate incident action plans, define priorities, review status, resolve conflicts, identify issues that require decisions from higher authorities, and evaluate the need for additional resources;

6. Issue and track the status of crisis management actions assigned by the FBI; and

7. Designate appropriate liaison and advisory personnel to support FEMA.

C. FEDERAL EMERGENCY MANAGEMENT AGENCY

Under PDD–39, FEMA supports the overall LFA by operating as the lead agency for consequence management until the overall LFA role is transferred to FEMA. FEMA will:

1. Determine when consequences are "imminent" for the purposes of the Stafford Act;

2. Consult with the Governor's office and the White House to determine if a Federal consequence management response is required and if FEMA is directed to use Stafford Act authorities. This process will involve appropriate notification and coordination with the FBI, as the overall LFA;

3. Work with the FBI to establish and operate a JIC in the field as the focal point for information to the public and the media concerning the Federal response to the emergency;

4. Establish the primary Federal operations centers for consequence management in the field and Washington, DC;

5. Appoint a ROC Director or FCO to manage and coordinate the Federal consequence management response in support of State and local governments. In coordination with the FBI, the ROC Director or FCO will convene meetings with decision makers of Federal, State, and local emergency management and technical support agencies, as appropriate, to formulate incident action plans, define priorities, review status, resolve conflicts, identify issues that require decisions from higher authorities, and evaluate the need for additional resources;

6. Issue and track the status of consequence management actions assigned by FEMA; and

7. Designate appropriate liaison and advisory personnel to support the FBI.

D. FEDERAL AGENCIES SUPPORTING TECHNICAL OPERATIONS

1. Department of Defense

As directed in PDD–39, the Department of Defense (DOD) will activate technical operations capabilities to support the Federal response to threats or acts of WMD terrorism. DOD will coordinate military operations within the United States with the appropriate civilian lead agency(ies) for technical operations.

2. Department of Energy

As directed in PDD–39, the Department of Energy (DOE) will activate technical operations capabilities to support the Federal response to threats or acts of WMD terrorism. In addition, the FBI has concluded formal agreements with potential LFAs of the Federal Radiological Emergency Response Plan (FRERP) that provide for interface, coordination, and technical assistance in support of the FBI's mission. If the FRERP is implemented concurrently with the FRP:

a. The Federal On-Scene Commander under the FRERP will coordinate the FRERP response with the FEMA official (either the ROC Director or the FCO), who is responsible under PDD–39 for coordination of all Federal support to State and local governments.

b. The FRERP response may include on-site management, radiological monitoring and assessment, development of Federal protective action recommendations, and provision of information on the radiological response to the public, the White House, Members of Congress, and foreign governments. The LFA of the FRERP will serve as the primary Federal source of information regarding on-site radiological conditions and off-site radiological effects.

c. The LFA of the FRERP will issue taskings that draw upon funding from the responding FRERP agencies.

3. Department of Health and Human Services

As directed in PDD–39, the Department of Health and Human Services (HHS) will activate technical operations capabilities to

support the Federal response to threats or acts of WMD terrorism. HHS may coordinate with individual agencies identified in the HHS Health and Medical Services Support Plan for the Federal Response to Acts of Chemical/Biological (C/B) Terrorism, to use the structure, relationships, and capabilities described in the HHS plan to support response operations. If the HHS plan is implemented:

a. The HHS on-scene representative will coordinate, through the ESF #8—Health and Medical Services Leader, the HHS plan response with the FEMA official (either the ROC Director or the FCO), who is responsible under PDD–39 for on-scene coordination of all Federal support to State and local governments.

b. The HHS plan response may include threat assessment, consultation, agent identification, epidemiological investigation, hazard detection and reduction, decontamination, public health support, medical support, and pharmaceutical support operations.

c. HHS will issue taskings that draw upon funding from the responding HHS plan agencies.

4. Environmental Protection Agency

As directed in PDD–39, the Environmental Protection Agency (EPA) will activate technical operations capabilities to support the Federal response to acts of WMD terrorism. EPA may coordinate with individual agencies identified in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) to use the structure, relationships, and capabilities of the National Response System as described in the NCP to support response operations. If the NCP is implemented:

a. The Hazardous Materials On-Scene Coordinator under the NCP will coordinate, through the ESF #10—Hazardous Materials Chair, the NCP response with the FEMA official (either the ROC Director or the FCO), who is responsible under PDD–39 for on-scene coordination of all Federal support to State and local governments.

b. The NCP response may include threat assessment, consultation, agent identification, hazard detection and reduction, environmental monitoring, decontamination, and long-term site restoration (environmental cleanup) operations.

VI. Funding Guidelines

A. As stated in PDD–39, Federal agencies directed to participate in the resolution of terrorist incidents or conduct of counterterrorist operations bear the costs of their own participation, unless otherwise directed by the President. This responsibility is subject to specific statutory authorization to provide support without reimbursement. In the absence of such specific authority, the Economy Act applies, and reimbursement cannot be waived.

B. FEMA can use limited pre-deployment authorities in advance of a Stafford Act declaration to "lessen or avert the threat of a catastrophe" only if the President expresses intention to go forward with a declaration. This authority is further interpreted by congressional intent, to the effect that the President must determine that assistance under existing Federal programs is inadequate to meet the crisis, before FEMA may directly intervene under the Stafford

Act. The Stafford Act authorizes the President to issue "emergency" and "major disaster" declarations.

1. Emergency declarations may be issued in response to a Governor's request, or in response to those rare emergencies, including some acts of terrorism, for which the Federal Government is assigned in the laws of the United States the exclusive or preeminent responsibility and authority to respond.

2. Major disaster declarations may be issued in response to a Governor's request for any natural catastrophe or, regardless of cause, any fire, flood, or explosion that has caused damage of sufficient severity and magnitude, as determined by the President, to warrant major disaster assistance under the Act.

3. If a Stafford Act declaration is provided, funding for consequence management may continue to be allocated from responding agency operating budgets, the Disaster Relief Fund, and supplemental appropriations.

C. If the President directs FEMA to use Stafford Act authorities, FEMA will issue mission assignments through the FRP to support consequence management.

1. Mission assignments are reimbursable work orders, issued by FEMA to Federal agencies, directing completion of specific tasks. Although the Stafford Act states that "Federal agencies may [emphasis added] be reimbursed for expenditures under the Act" from the Disaster Relief Fund, it is FEMA policy to reimburse Federal agencies for eligible work performed under mission assignments.

2. Mission assignments issued to support consequence management will follow FEMA's Standard Operating Procedures for the Management of Mission Assignments or applicable superseding documentation.

D. FEMA provides the following funding guidance to the FRP agencies:

1. Commitments by individual agencies to take precautionary measures in anticipation of special events will not be reimbursed under the Stafford Act, unless mission-assigned by FEMA to support consequence management.

2. Stafford Act authorities do not pertain to law enforcement functions. Law enforcement or crisis management actions will not be mission-assigned for reimbursement under the Stafford Act.

VII. References

A. Presidential Decision Directive 39, U.S. Policy on Counterterrorism (classified). An unclassified extract may be obtained from FEMA.

B. PDD–39 Domestic Deployment Guidelines (classified).

C. PDD–62, Protection Against Unconventional Threats to the Homeland and Americans Overseas (classified).

D. FBI WMD Incident Contingency Plan.

E. HHS Health and Medical Services Support Plan for the Federal Response to Acts of Chemical/Biological Terrorism.

VIII. Terms and Definitions

A. BIOLOGICAL AGENTS

The FBI WMD Incident Contingency Plan defines biological agents as microorganisms or toxins from living organisms that have infectious or noninfectious properties that produce lethal or serious effects in plants and animals.

B. CHEMICAL AGENTS

The FBI WMD Incident Contingency Plan defines chemical agents as solids, liquids, or gases that have chemical properties that produce lethal or serious effects in plants and animals.

C. CONSEQUENCE MANAGEMENT

FEMA defines consequence management as measures to protect public health and safety, restore essential government services, and provide emergency relief to governments, businesses, and individuals affected by the consequences of terrorism.

D. CREDIBLE THREAT

The FBI conducts an interagency threat assessment that indicates that the threat is credible and confirms the involvement of a WMD in the developing terrorist incident.

E. CRISIS MANAGEMENT

The FBI defines crisis management as measures to identify, acquire, and plan the use of resources needed to anticipate, prevent, and/or resolve a threat or act of terrorism.

F. DOMESTIC EMERGENCY SUPPORT TEAM (DEST)

PDD–39 defines the DEST as a rapidly deployable interagency support team established to ensure that the full range of necessary expertise and capabilities are available to the on-scene coordinator. The FBI is responsible for the DEST in domestic incidents.

G. LEAD AGENCY

The FBI defines lead agency, as used in PDD–39, as the Federal department or agency assigned lead responsibility to manage and coordinate a specific function—either crisis management or consequence management. Lead agencies are designated on the basis of their having the most authorities, resources, capabilities, or expertise relative to accomplishment of the specific function. Lead agencies support the overall Lead Federal Agency during all phases of the terrorism response.

H. NUCLEAR WEAPONS

The Effects of Nuclear Weapons (DOE, 1977) defines nuclear weapons as weapons that release nuclear energy in an explosive manner as the result of nuclear chain reactions involving fission and/or fusion of atomic nuclei.

I. SENIOR FEMA OFFICIAL

The official appointed by the Director of FEMA or his representative to represent FEMA on the Command Group at the Joint Operations Center. The Senior FEMA Official is not the Federal Coordinating Officer.

J. TECHNICAL OPERATIONS

As used in this annex, technical operations include actions to identify, assess, dismantle, transfer, dispose of, or decontaminate personnel and property exposed to explosive ordnance or WMD.

K. TERRORIST INCIDENT

The FBI defines a terrorist incident as a violent act, or an act dangerous to human life, in violation of the criminal laws of the United States or of any State, to intimidate or coerce a government, the civilian population, or any segment thereof in furtherance of political or social objectives.

L. WEAPON OF MASS DESTRUCTION (WMD)

Title 18, U.S.C. 2332a, defines a weapon of mass destruction as (1) any destructive device as defined in section 921 of this title, [which reads] any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine or device similar to the above; (2) poison gas; (3) any weapon involving a disease organism; or (4) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

Updated: June 3, 1999.

c. Comprehensive Readiness Program for Countering Proliferation of Weapons of Mass Destruction: Report to Congress, Pursuant to Public Law 104–201, Sec. 1443(c), May 5, 1997

105TH CONGRESS,1ST SESSION
HOUSE DOCUMENT 105–79

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT THAT DESCRIBES THE UNITED STATES COMPREHENSIVE READINESS PROGRAM FOR COUNTERING PROLIFERATION OF WEAPONS OF MASS DESTRUCTION, PURSUANT TO PUBLIC LAW 104–201, SEC. 1443(C) (110 STAT. 2729)

MAY 5, 1997—MESSAGE AND ACCOMPANYING PAPERS REFERRED TO THE COMMITTEES ON NATIONAL SECURITY AND INTERNATIONAL RELATIONS, AND ORDERED TO BE PRINTED

To the Congress of the United States:

The National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201), title XIV, section 1443 (Defense Against Weapons of Mass Destruction), requires the President to transmit a report to the Congress that describes the United States comprehensive readiness program for countering proliferation of weapons of mass destruction. In accordance with this provision, I enclose the attached report.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 2, 1997.*

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United States Comprehensive Preparedness Program

INTRODUCTION

The Fiscal Year (FY) 1997 National Defense Authorization Act (Public Law 104-201), Title XIV - Defense Against Weapons of Mass Destruction, Subtitle D - Coordination of Policy and Countermeasures Against Proliferation of Weapons of Mass Destruction, Section 1443, directs the development of a report on the United States (U.S.) Comprehensive Readiness Program for the coordination and countermeasures against the proliferation of weapons of mass destruction. Descriptions of U.S. Government plans and activities in ten specific program areas are identified for inclusion in the report.

The information contained in this report is intended to be responsive to the Section 1443 requirement, but does not necessarily discuss or describe all U.S. Government programs and initiatives in each area.

PROGRAM ACTIVITIES

The following information is provided in the ten program areas:

1443(b)(1)
Plans for countering proliferation of weapons of mass destruction and related materials and technologies.

OVERVIEW

U.S. nonproliferation policy objectives were established by the President in his statement of September 27, 1993. These include:

- A comprehensive approach to the growing accumulation of fissile material from dismantled nuclear weapons and within civil nuclear programs;
- Implementation of a streamlined and harmonized export control system;
- Support for the Nuclear Nonproliferation Treaty (extended indefinitely in 1995) and the international safeguards system of the International Atomic Energy Agency (IAEA);
- Support for the Missile Technology Control Regime and active opposition to missile programs of proliferation concern;

- Commitment to ratify the Chemical Weapons Convention and promote new measures that will provide increased transparency of activities and facilities involving possible biological weapons applications;

- Active engagement in regional nonproliferation efforts, including on the Korean Peninsula, and in the Middle East and South Asia;

- Intensified efforts to ensure that the former Soviet Union, Eastern Europe and China do not contribute to the spread of weapons of mass destruction and missiles;

- Greater priority in our own intelligence collection and defense planning to promote capabilities to counter the threat from weapons of mass destruction and missiles around the world; and

- Greater transparency in conventional arms transfers.

CURRENT PROGRAMS/CAPABILITIES

These broad objectives continue to guide U.S. policy as programs are developed. Specifically, the Administration plans to carry out a broad range of activities directed at reducing the likelihood of further proliferation and at responding to the existing proliferation threat to our own security.

STRENGTHENING THE INTERNATIONAL NONPROLIFERATION REGIME

- Building on the success in attaining indefinite extension of the Nuclear Nonproliferation Treaty in 1995, the U.S. will work with other parties to ensure a successful enhanced review process, leading to a review conference in 2000.

- The U.S. will intensify efforts to secure agreement to and implementation of strengthened IAEA safeguards under the Programme 93+2, as well as to ensure that adequate resources are available to carry out the IAEA's critical safeguards responsibilities. The U.S. is placing excess weapons materials under IAEA safeguards and it will work with Russia and the IAEA to examine under what circumstances IAEA verification measures might be extended to additional fissile material from dismantled nuclear weapons in the U.S. and Russia.

- The Administration encourages Senate ratification of the Chemical Weapons Convention by its April 29, 1997 entry into force, and efforts to develop a protocol to enhance transparency and deter noncompliance with the Biological Weapons Convention will continue.

- Efforts to begin negotiations on a Fissile Material Cutoff Treaty, as President Clinton proposed in 1993, will continue.

- Despite India's refusal to join a broad international consensus in support of the Comprehensive Test Ban Treaty, the successful negotiation of this treaty contributes to U.S. nuclear arms control objectives and significantly reinforces global norms against proliferation. Widespread adherence to this treaty, including U.S. ratification, will be sought.

CONTROLLING DANGEROUS EXPORTS

- Through cooperation with U.S. partners in the Missile Technology Control Regime, the Australia Group chemical/biological weapons export control regime and the Nuclear Suppliers Group, work to refine export controls aimed at preventing proliferation will continue.

- Where appropriate, U.S. will support prudent expansion in the membership of these regimes, while seeking to ensure that all significant potential exporters of sensitive technology subscribe to international nonproliferation export control norms.

- Through the recently-established Wassenaar Arrangement, the U.S. will build international cooperation directed at controlling exports of conventional arms and dual-use goods and technology.

- Active diplomatic efforts to secure cooperation by Russia, China and emerging suppliers in preventing exports to nuclear, missile and chemical/biological programs in proliferator states will be maintained. Similarly, activities designed to prevent transfers that raise proliferation concerns will continue.

- The U.S. will provide other countries, particularly the states of the former Soviet Union and Central Europe, with technical, legal and other forms of assistance to develop effective export control systems and to enforce their own export control legislation.

- Through the Nonproliferation Experts Group (involving representatives of the Group of Seven countries and Russia, known collectively as the P-8) and other bilateral and multilateral channels, the U.S. will improve cooperation and information sharing among intelligence, law enforcement, and technical experts to stem illicit trafficking in nuclear materials. In accordance with the commitments at the April 1996 Moscow Nuclear Summit, the U.S. will extend this cooperation to additional countries beyond the P-8.

CONTAINING REGIONAL PROLIFERATION THREATS

- On the Korean Peninsula, implementation of the Agreed Framework, which has frozen North Korea's dangerous nuclear program, will be pursued. The Administration will advance efforts to persuade North Korea to forego the production and export of ballistic missiles.

- Iraq continues to obstruct United Nations efforts to uncover and destroy its nuclear, missile and chemical/biological capabilities. The inspection activities carried out by the United Nations Special Commission on Iraq and the IAEA require the full support of the U.S. and other governments, including provision of a stable financial base for these essential operations. Long-term monitoring of Iraqi activities to prevent reconstruction of prohibited weapons capabilities is an increasingly important priority.

- Active efforts to discourage assistance to Iran's nuclear, chemical and missile programs will continue to receive high diplomatic priority, as will similar efforts directed against proliferators elsewhere in the Middle East.

- The U.S. will continue to urge India and Pakistan to refrain from further steps toward the acquisition or deployment of nuclear weapons and missiles, and will encourage efforts toward nonproliferation dialogue within the region and with other countries.

- The U.S. also continues to work with members of the Middle East Arms Control and Regional Security Working Group to promote confidence building and security measures.

STRENGTHENING MILITARY CAPABILITIES AGAINST PROLIFERATION THREATS

- The Department of Defense (DoD), through its Counterproliferation Initiative, is working to prevent the proliferation of nuclear, biological and chemical weapons, to roll back such programs where proliferation has already occurred, to deter the use of these weapons, and to ensure that U.S. forces are prepared to fight and win future conflicts in which the adversary threatens or uses such weapons. U.S. forces must also be prepared to deal with threats related to such weapons in operations other than war, such as peacekeeping, in which one or more of the sides has access to such weapons.

- Over 100 DoD programs are strongly supporting national efforts to counter nuclear, biological and chemical proliferation threats. Reporting to the Under Secretary for Acquisition and Technology, the Counterproliferation Support

Program focuses on redressing the most critical shortfalls in deployed capabilities by leveraging and accelerating on-going and high payoff research and development projects. In the same functional area, the Chemical and Biological Defense Program oversees and coordinates all DoD efforts in acquiring new passive defense capabilities. Ballistic Missile Defense Organization programs involving theater and national missile defense also form an integral element of the Counterproliferation effort.

- In the area of prevention, the Counterproliferation Support Program office, in partnership with the U.S. Navy, successfully deployed the Navy's Specific Emitter Identification prototype system to improve capabilities to identify and track ships at sea suspected of transporting nuclear, biological, chemical and related materials. Deployment began in 1995; a total of 32 units will be deployed by the end of FY1997.

- The nuclear/biological/chemical Defense Program fulfills joint passive defense requirements to permit U.S. forces to survive and fight in a nuclear/biological/chemical-contaminated environment. Specific examples of new and improved systems that have been fielded include: new protective masks, advanced chemical and biological protective garments, stand-off optical chemical detectors, and first-ever capabilities for point biological agent detection and stand-off aerosol/particulate detection. Additionally, there has been significant progress in research and development initiatives, particularly in the development of miniature, pocket-sized chemical agent detectors, biological agent point detection and identification systems, and warning and reporting networks.

- Active defenses play an important role in protecting U.S., allied, and coalition forces, civilians supporting military operations, and non-combatants. By intercepting and destroying nuclear/biological/chemical-armed missiles and aircraft at effective distance and altitude, active defenses substantially enhance the ability of friendly forces to conduct successful military operations. The U.S. theater missile defense program calls for near-term improvements to existing systems, development of new core program capabilities, and exploration of Advanced Concept Technology Demonstrations and other risk reduction activities to complement the core programs.

- The Counterproliferation Support Program also funds projects to enhance U.S. military capabilities to identify, characterize, and neutralize nuclear, biological and chemical weapons, related facilities, and supporting infrastructure elements while minimizing and predicting the consequences of resulting collateral effects. Efforts are aimed at gaining a better understanding of the atmospheric dispersion of chemical and biological agents, along with methods for neutralizing them upon intercept.

- DoD is coordinating its anti-nuclear/biological/chemical terrorist technology development activities with the Technical Support Working Group, which develops joint interagency counterterrorism requirements and conducts R & D to meet the requirements, and with Special Operations Command and joint Service explosive ordinance disposal units to facilitate responsiveness in meeting user needs. Projects underway include development of chemical/biological agent perimeter monitoring sensors; a vented suppressive shield to contain biological and chemical weapons effects; a Quick Mask for responsive protection against chemical and biological agents; a joint U.S.-Canadian explosive ordnance disposal suit for biological and chemical threats; a non-intrusive chemical agent detection system; and, a special chemical and biological agent sample extraction and rapid identification system.

SECURING MATERIALS, TECHNOLOGY AND KNOW-HOW FROM THE FORMER SOVIET UNION

- The dissolution of the Union of Soviet Socialist Republics (USSR) raised the risk that former Soviet nuclear materials, advanced technologies and the knowledge of its scientists would become available to potential proliferators. The U.S. has in place a broad range of programs aimed at reducing this risk. While the primary objective is to secure weapons-related items in the former Soviet Union and prevent their diversion to unauthorized channels, cooperation against nuclear smuggling or other unauthorized transfers has been increased.

- Under DoD's Cooperative Threat Reduction program, the U.S. provides assistance to: enable Ukraine, Kazakstan and Belarus to become non-nuclear weapons states; assist Russia in accelerating strategic arms reduction to START I levels; enhance the security, safety, control, accounting, and centralization of nuclear weapons and fissile material in Russia to prevent their proliferation and encourage their reduction; initiate and accelerate Russia's chemical weapons destruction program; and, encourage demilitarization of Russia, Ukraine, Belarus and Kazakstan.

- Through the Department of Energy's (DOE) programs of cooperation on nuclear material protection, control and accounting, the U.S. will further strengthen material protection, control and accounting systems in the former Soviet Union. Work is being carried out at more than forty sites in Russia, Ukraine, Kazakstan, and five other countries. This cooperation directly reduces the risk of nuclear proliferation by securing nuclear materials against theft or unauthorized use.

- The continuing implementation of a U.S. agreement to purchase highly enriched uranium from Russia will result in the conversion of the fissile

material from thousands of dismantled nuclear weapons to a non-weapons usable form. Discussions with Russia on similar international cooperation to dispose of excess plutonium are in their early stages.

- At multilaterally-funded science centers in Russia and Ukraine, former Soviet weapons scientists are being provided with productive employment on civilian research projects, removing their incentive to go to work for would-be proliferators. DOE's Initiatives for Proliferation Prevention program assists industrial facilities within the former Soviet weapons complex to make a transition to productive civilian activities in partnership with U.S. companies.

- Increased focus will be given to strengthening the ability of newly-independent countries in the Caucasus and Central Asia to prevent illicit trafficking in nuclear materials and other proliferation-related items through their territory. The U.S. is assisting the development of national legal and export control systems, personnel training, and law enforcement capabilities.

1443(b)(2)

Plans for training and equipping Federal, State and local officials for managing a crisis involving a use or threatened use of a weapon of mass destruction, including the consequences of the use of such a weapon.

OVERVIEW

Events involving weapons of mass destruction are highly destructive. Effective response measures are technical in nature and require the immediate delivery of sophisticated expertise and proficiency levels that are currently unavailable in local community response organizations. Present procedures are not adequate to protect emergency response personnel from the no-warning risks of becoming secondary victims of a weapons of mass destruction. Nor are they sufficient to address the enormous consequences that are possible with a widespread release of hazardous materials resulting from use of weapons of mass destruction. Municipalities will rely on the technical and logistical capabilities of the U.S. Government to supplement their local efforts and to assist in resolving weapons of mass destruction-related incidents.

Therefore, it is incumbent upon the U.S. Government to assist in training and equipping local emergency responders in the skills and techniques to operate safely and effectively during a weapons of mass destruction crisis. Emergency responders and managers must be able to recognize the unique characteristics of weapons of mass destruction in order to protect the public, mitigate the dangers, and facilitate

integration of the U.S. Government support actions that are necessary to resolve the incident.

Because of their potential consequences, weapons of mass destruction threats and events require the highest level of coordination among local, State, and Federal assets for effective outcome. The proposed U.S. Government training plan promotes partnership across traditional lines for the development of standardized procedures and capabilities that enable emergency responders to take the educated first response actions and efficiently incorporate the Federal functions that follow.

U.S. GOVERNMENT ORGANIZATIONAL STRUCTURE FOR MEETING THE CHALLENGE

The Defense Against Weapons of Mass Destruction Act of 1996, Section 1412, Subtitle A - Domestic Preparedness, specifies that "the Secretary of Defense shall carry out a program to provide civilian personnel of Federal, State, and local agencies with training and expert advice regarding emergency responses to a use or threatened use of a weapon of mass destruction or related materials" and, in doing so, "shall coordinate with each of the following (agencies):

- The Federal Emergency Management Agency (FEMA)
- DOE
- "The Heads of any other Federal, State, and local government agencies that have expertise or responsibilities relevant to emergency responses." Such agencies include the Federal Bureau of Investigation (FBI); the Environmental Protection Agency (EPA); the Department of Health and Human Services (HHS), U.S. Public Health Service (USPHS), and the Department of Transportation (DOT).

To this end, the U.S. Government has formed a Training Task Group, comprised of 13 Federal agencies and organizations with crisis and consequence management responsibilities, to address the myriad of training issues facing emergency responders and managers.

PROGRAMS

CURRENT PROGRAMS/CAPABILITIES

The Training Task Group is developing a comprehensive strategy to assist communities in training emergency responders and managers for response to a weapons of mass destruction crisis. The plan involves the promotion of partnership and participation among local, State, and Federal agencies prior to an actual emergency to enhance preparedness for an effective response. Training

Task Group recommendations will guide U.S. Government plans for the expenditure of training resources made available by Nunn-Lugar legislation.

The Training Task Group has proposed a set of performance objectives critical to a weapons of mass destruction response and the respective training required for their execution. Table 1 summarizes the five levels of required training and associated performance objectives. Acceptance of these performance objectives will standardize the response community and familiarize it with the crisis and consequence management systems used by the U.S. Government. These standards will also be the basis for an assessment tool used in a self-evaluation process by states and cities of their response capabilities and training needs.

The 26 largest U.S. cities will be identified for the initial focus of weapons of mass destruction assessment and training available under the current appropriation. They coincide with the cities identified by the HHS, USPHS, for its training of the Metropolitan Medical Strike Force Teams, also funded under Nunn-Lugar-Domenici provisions of the FY 1997 National Defense Authorization Act. This decision was based on population concentrations, present base-level capabilities, and scheduled large scale security events or concerns that significantly increase their risks for terrorist activity. Washington, DC will serve as the initial training site. Further prioritization and scheduling will follow.

The Training Task Group is developing a means to engage community planners and managers in a dialogue about weapons of mass destruction training issues and to present them with a unified U.S. Government training plan. The presentation will explain the integration of the roles and responsibilities of various U.S. Government functions in response to a weapons of mass destruction event, and will assist the communities in a self-evaluation process. The training plan will require a commitment of personnel and other resources by both the U.S. Government and receiving communities. Initiation of this dialogue is projected in FY 1997.

PROGRAMS IN PLANNING OR REVIEW PHASES

Regarding methodology, the Administration plans to review existing training systems, identified in Appendix A of this document, and determine their usefulness in training emergency responders. Then, as necessary, new courses and methods will be developed and included in an updated compendium of weapons of mass destruction courses and made available to local communities for enrollment.

Community Emergency Responder Training Performance Objectives
Table 1

Level	Objectives	Audience
Awareness Level, including pre- and post- weapons of mass destruction event	• Recognize potential weapons of mass destruction (components, materials) • Recognize hazardous environment (including nuclear/biological/ chemical compounds) • Make proper notifications • Use self protection measures • Take measures to protect population and safeguard property	911 Operators/Dispatch , Law Enforcement Officers, Fire Fighters, HAZMAT Responders, On-Scene Commanders, Emergency Medical Service Personnel, Emergency Room Personnel, Emergency Management Personnel, Senior Officials, Medical Examiners/ Coroners, Trainers/Planners, Public Information, Other Event Responders
Operations Level	• Awareness Level plus: • Use advanced personal protection measures • Administer basic life support • Awareness of crime scene/evidence preservation/recognition • Establish evacuation measures • Use decontamination/detection measures & equip • Operate in a unified command environment	Law Enforcement, Fire Fighters, Hazardous Materials Responders, Emergency Medical Service, Incident Commanders
Technician/Specialist	• Operations Level plus: • Advanced knowledge of personal protection measures • Advanced knowledge of sampling • Advanced knowledge of detection of agents • Advanced knowledge of monitoring in a complex environment • Advanced knowledge of decontamination, including mass casualty and hazard mitigation	Hazardous Materials Responders, On-Site Incident Commanders, Trainers
Emergency Medical Service	• Operations Level plus: • In-depth knowledge of advanced medical assessment and treatment capabilities • In-depth knowledge of nuclear/biological/chemical health effects	Emergency Medical Service (to include hospitals)
Senior Management	• Specialized information briefing • Knowledge of key operational aspects of an incident and decisions they must make • Knowledge of the Federal plans, infrastructure, and how to access support assets	Senior Officials

The Training Task Group also plans to complete the Performance Objectives and Assessment Tools as well as the training presentation to individual communities. It is anticipated that during FY 1997, training needs assessments will be completed in all 26 selected cities and that training will be delivered in up to 8 of those cities. Twelve additional cities will receive some training during FY 1997, with the remainder to follow in FY 1998. Delivery of training to communities in all 50 States and Territories is projected through the year 2000. Participation in this program will not preclude any of the cities from enrolling in weapons of mass destruction-related training that is made available by individual Federal agencies through other funding sources.

FUNDING

As noted elsewhere in this report and in The Defense Against Weapons of Mass Destruction Act of 1996 - Subtitle A, Domestic Preparedness, other U.S. Government agencies maintain roles for response to weapons of mass destruction emergencies. The Act provides that the current lead official, the Secretary of Defense, may use personnel and capabilities of these Federal agencies to provide training and expert advice under the program. DoD may provide some financial assistance to other Federal agencies if that agency is unable to provide required training and expert advice without reimbursement. The various Federal agencies involved in the provision of training and expert assistance must ensure that their FY 1998/1999 budget submissions fully fund these activities, since the DoD FY 1998/1999 budget request does not include funds for transfer to other Federal agencies.

The Training Task Group has identified the need for defining budget allocation requirements for follow-on funding. While the implementation of the Nunn-Lugar-Domenici program is underway, it is acknowledged that the U.S. Government will probably not reach all 26 of the largest U.S. cities in FY 1997, and will require commitment of allocated funds in 1998. In order to be able to reach all 50 states and the U.S. territories, allocation of funds for the out-years must be gained through legislative action.

1443(b)(3)
Plans for providing for regular sharing of information among intelligence, law enforcement, and customs agencies.

OVERVIEW

The mission of the U.S. Government's Nonproliferation Program is preventing acquisition of weapons of mass destruction, to include nuclear, biological, and

chemical weapons, along with related technologies, equipment and expertise; rolling back existing capabilities; deterring weapons use; and adapting military forces to respond to threats. This nonproliferation process also involves the following processes: policy formulation, interdiction, defense, licensing, enforcement, and legislation. Within these elements, the U.S. Government has developed several mechanisms for regular information sharing among the Intelligence Community, law enforcement, and customs agencies. These mechanisms include the establishment of procedures to share information from classified databases, formal committees, informal exchanges, and ad hoc working groups or case-by-case information sharing, all of which provide for regular sharing of information and intelligence.

U.S. GOVERNMENT ORGANIZATIONAL STRUCTURE FOR MEETING THE CHALLENGE

The Central Intelligence Agency (CIA) Nonproliferation Center serves as the focal point for the intelligence community on proliferation issues. In support of the U.S. Government's efforts to counter proliferation and promote information sharing, the Center sponsors conferences, produces papers, reports and reference documents and includes personnel detailed from the FBI, U.S. Customs Service (USCS) and other U.S. Government agencies. One example of intelligence/information sharing is the Nonproliferation Center-chaired Policy Video Conference. The following agencies are participants in the Conference: components of the DoD, to include the Defense Intelligence Agency (DIA); the National Security Agency (NSA), the DOE, the Department of State (DoS), and the FBI.

PROGRAMS

CURRENT PROGRAMS/CAPABILITIES

There are a number of specialized committees which provide regular intelligence sharing in proliferation and interdiction-related matters. The Intelligence Community supports the interagency interdiction working groups in their efforts to stop or impede the diversion of equipment and production technologies to countries of proliferation concern. These DoS-chaired committees are organized by the particular weapons of mass destruction technology involved. SHIELD covers proliferation-related transaction information pertaining to chemical and biological matters; the Missile Technology Analysis Group, handles missile-related matters; and the Nuclear Export Violation Working Group, handles nuclear-related matters. The Technology Transfer Working Group handles undesirable or illicit international transfers of advanced and improved conventional weaponry and related dual use technologies and data. These committees have participation from the NSC and the following agencies: CIA, DoD, DOE, FBI, USCS, NSA, the Department of Commerce (DOC) and the national research laboratories.

In addition, other committees address intelligence production issues as they relate to proliferation. An example of this intelligence sharing is the Joint Atomic Energy Intelligence Committee, a Director of Central Intelligence committee responsible for assessing foreign atomic energy developments, including the spread and development of nuclear weapons. It produces its own intelligence reports and contributes to national intelligence products. Membership includes: the CIA; DoD, including DIA; NSA; DoS; DOE and FBI.

Given the complex nature of proliferation investigations, there is considerable intelligence and information sharing in the conduct of these investigations whether they involve an intelligence matter, a criminal case, or both. Where applicable, proliferation investigations also include cooperative initiatives with other agencies or foreign countries.

With respect to weapons of mass destruction terrorism, there is extensive intelligence sharing at the CIA's Counterterrorism Center and at the many interagency Intelligence Working Groups that pursue various initiatives, including intelligence exchange, technological research and development, database sharing, and exercise planning. Participation in these groups includes: the NSC, DoD, CIA, DoS, DOE, USCS, DOC, Department of Justice (DOJ), Nuclear Regulatory Commission (NRC), EPA, FEMA, USPHS, Office of Management and Budget, Department of Agriculture, U.S. Coast Guard (USCG), and the Center for Disease Control (CDC). Some of these Working Groups are:

- Various NSC chaired working groups, including a Sub-Exercise Working Group co-chaired by the FBI, and a Subgroup on Nuclear Trafficking, with its Nuclear Smuggling Response Group (DoS, DoD, Joint Chiefs of Staff, CIA, DOE, NRC, USCS, FBI, or DOC);

- Technical Support Working Group: research and development, science and technology devoted to counter terrorism;

- Interagency Intelligence Committee on Terrorism - Chemical/Biological/ Radiological Subcommittee;

- Interagency Intelligence Committee on Terrorism - Chemical/Biological/ Radiological Intelligence Working Group; and

- Annual trilateral conference with U.S. allies on the issue of chemical/biological terrorism.

To enhance interagency liaison, cooperation, and intelligence exchange throughout the FBI's Counterterrorism Program, the FBI has coordinated with 22 Federal agencies to arrange for their representation at FBI Headquarters Counterterrorism Center through the staffing of detailees.

In addition, Joint Terrorism Task Forces are maintained by 13 FBI field offices throughout the country. These task forces include representatives from Federal, State, and local law enforcement and U.S. intelligence agencies.

Should it become necessary to disseminate information concerning a weapons of mass destruction threat or incident, the FBI will use its Terrorist Threat Warning System. This system notifies 34 federal agencies, such as the White House, Federal Aviation Administration, DoD, CIA, and DOC, with the vital information in either classified or unclassified formats. Should a recipient agency wish to further alert other organizations, it would clear a sanitized version of the classified message through the FBI. This system has been in effect since 1989, and is regularly utilized by the FBI to alert the counterterrorism and law enforcement community responsible for countering terrorist threats.

As noted above, if the information requires nationwide dissemination to all Federal, State, and local law enforcement, the FBI will transmit an unclassified message via the National Law Enforcement Telecommunications System. In addition, the FBI could transmit weapons of mass destruction information to the U.S. business community via the Awareness of National Security Issues and Response Program. These systems ensure that all essential information is disseminated to all appropriate agencies at all levels of government.

PROGRAMS IN PLANNING OR REVIEW STAGES

In conjunction with a DOE national laboratory, the FBI is considering the development of a classified data base targeting the nuclear proliferation issue. Should this project be implemented, it is estimated that it will cost $300,000 in the first year of its operation.

FUNDING

No line item funding requirements are addressed herein, since each agency absorbs the cost of employee participation, operational and administrative costs.

1443(b)(4)

Plans for training and equipping law enforcement units, customs services, and border security personnel to counter the smuggling of weapons of mass destruction and related materials and technologies.

OVERVIEW

Law enforcement activities - both domestic and international - within this area are an interagency partnership, including: the DOE, DoD, DoS, USCS, the FBI, and the Intelligence Community, among others. The U.S. Government objective is to establish a system for interdicting smuggled weapons of mass destruction materials, as well as to erect technical barriers for detecting and deterring illicit movement of such material. In this regard, there is overall U.S. Government agreement to provide training and technical assistance in this area.

U.S. GOVERNMENT ORGANIZATIONAL STRUCTURE FOR MEETING THE CHALLENGE

In accordance with Presidential Decision Directive-41 (U.S. Policy on Improving Nuclear Material Security in Russia and the Other Newly Independent States), which strives to improve nuclear security in the former Soviet Union, the DOE is the lead agency for nuclear material protection, control and accountability and for providing technical analysis of nuclear trafficking incidents. Other agencies (including USCS and FBI) have responsibility for developing and implementing programs to train and equip former Soviet Union law enforcement units, customs services, and border security personnel to counter the smuggling of weapons of mass destruction and related materials and technologies. These agencies rely on significant technical assistance from both DOE and DoD, particularly their national laboratories, in support of their programs.

With regard to the USCS, in July 1995 a Nuclear Problem Solving Group was formed. This group meets on a bi-monthly basis to address nuclear smuggling and detection issues. While it has a domestic focus, personnel for the Office of International Affairs also participate.

CURRENT PROGRAMS/CAPABILITIES

INTERNATIONAL

A. DOE

DOE has three related initiatives that are underway or have recently been completed. First, DOE supported the first phase of the USCS-sponsored training program called "Project Amber" in Eastern/Central Europe and the Baltics. DOE's role was to assess the countries' nuclear law enforcement capabilities and subsequently to develop tailored training programs for local border and customs officials on how to identify nuclear-related dual-use materials, equipment, and technologies. Seven countries were assessed and trained during "Project Amber." Second, DOE compiled a "Guidebook on

Nuclear-Related Dual Use Technologies," including descriptions and pictures of controlled commodities, as well as useful packaging information to be disseminated to members of the Nuclear Suppliers Group. Third, under Cooperative Threat Reduction export control initiatives, DOE is providing technical support to the USCS regarding placing radiation detection equipment in Belarus.

B. DoD

DoD currently has two international initiatives underway: the DoD/FBI Counterproliferation Program and the DoD/USCS Counterproliferation Program. Both are congressionally-mandated programs developed in response to the potential proliferation of weapons of mass destruction through and within the countries of Eastern Europe, the Baltics, and the former Soviet Union.

The DoD/FBI Program, funded under the National Defense Authorization Act for FY1995, uses re-programmed DoD funds up to $9M. The program is focused on the southern tier of the former Soviet Union, initially Kazakstan and Uzbekistan. It is designed to provide general and specialized training with some equipment to law enforcement entities in order to help them detect, deter, and investigate proliferation incidents.

The DoD/USCS Program, funded under the National Defense Authorization Act for FY1997, is funded at $9M. Initially, the program will focus on providing training and equipment to customs and other law enforcement agencies in Eastern Europe and the Baltics.

Both programs should be operational during FY1997.

C. USCS

1. *Equipment*: The USCS currently has 28 radiation detection "pagers" furnished, in part, by the DOE Special Technologies Laboratory, which will eventually be positioned at various international border sites. Four are being used for demonstration and analysis purposes by USCS headquarters personnel. The remaining 24 are undergoing tests at 11 sea, land, and air ports of entry. Regarding upgraded x-ray equipment, five systems are being upgraded at border locations to included nuclear detection capabilities. Efforts have been made to gather substantial background data at land borders and international airports in order to gauge the threshold levels necessary for equipment to be used at borders.

2. *Training*: USCS personnel attend DOE-sponsored courses on Nuclear Nonproliferation, Dual-Use Items, and Nuclear Awareness and Technical

Response. USCS and DOE held a three-day training seminar at the Pacific Northwest National Laboratory to establish a useful classroom and hands-on curriculum for training USCS field personnel in the detection, analysis, and handling of nuclear materials.

DOMESTIC

A. DOE

DOE has long been the developer of systems for detecting radioactive materials. Extensive cooperation with the USCS provides an example of DOE's technology development role. As noted above, DOE developed "radiation pagers," which will become the basis the of a significant procurement in the future. Additionally, DOE has developed and is testing with USCS larger fixed sensor systems appropriate for checking cargo at borders and ports of entry and will be working closely with USCS to evaluate commercial systems, which can provide specific identification of radioactive sources and the reduction of "false positives."

Perhaps the most important role for DOE in interdicting trafficking is developing advanced systems for radiation detection. Two current efforts, which will require substantial investment to advance to the prototype stage are the development of active detector systems for standoff identification of highly enriched uranium and exploration of room temperature detection systems, using either room temperature detectors such as cadmium/zinc/tungsten or embedded cooling systems. Other work is directed toward spectral analysis to allow expanded specificity in identification of materials and developing sensor systems that are capable of remote autonomous operation.

DOE offers a number of formal and "ad hoc" courses of instruction in classroom settings, both in the U.S. and abroad. DOE's Nuclear Awareness Training course and handbooks provide a basic level of understanding of nuclear technology and terminology to intelligence, nuclear licensing, and nonproliferation communities. DOE has published and disseminated a "Nuclear Terms Handbook," a "Black Market Nuclear Materials List" and ad-hoc reports on substances and objects encountered in the black market, e.g., "red mercury." Some of these training activities were developed in response to the illicit nuclear materials phenomenon, e.g., a tailored, 6 hour seminar specifically addressing nuclear trafficking and nuclear materials handling at the International Law Enforcement Academy in Budapest, Hungary. The demand for training by DOE experts related to nuclear smuggling and terrorism is growing well beyond current capabilities.

B. DoD

The National Defense Authorization Act for FY1997, Section 1421, provides authorization of $15M for procurement of detection equipment for U.S. border security. Due to a reduced appropriations, this program was funded at $9M. The legislation calls for procurement of equipment capable of detecting the movement of weapons of mass destruction and related materials into the U.S., and for interdicting such materials. Detailed program plans are currently in preparation by the DoD and the USCS in consultation with the U.S. Border Patrol.

C. Developing and Proposed Programs:

1. DOE

USCS and the DoD have requested DOE technical assistance for future overseas assessments and training on identifying nuclear and nuclear-related dual-use materials, equipment, and technologies. DOE will assist in local training of USCS and other law enforcement agencies. It will also modify the "Guidebook on Nuclear-Related Dual-Use Technologies" by incorporating technology input from Nuclear Suppliers Group members and translating the Guidebook into Russian.

The very high volume of air-, land-, and sea-traffic provides a challenge, not merely to detect nuclear material, but to permit the legitimate radioactive transport for passage while interdicting and prosecuting illicit trafficking. DOE will assist USCS and other agencies to develop a deployment and operations plan for nuclear detectors. This will include technical guidance or handbook pages to USCS agents on how they should respond to various levels of alert displayed on equipment.

With additional funding, DOE's Emergency Operations Center expects to define and staff a customer help line to provide quick turnaround expertise specifically geared to illicit nuclear material events. In most cases, this will meet the needs of law enforcement agencies well short of, and in lieu of, deployment of actual radiological response assets.

Training law enforcement officers how to transition from detection to a crisis management operation is a critical component within DOE's interagency training program. Once a weapon of mass destruction is located, there must be a seamless transition to a national response effort. Personnel that receive training to detect materials at ports of entry and other locations will be trained in the response program mentioned above.

2. *DoD*

Because of funding constraints, both the DoD/FBI Counterproliferation Program and the DoD/USCS Counterproliferation Program are limited in the number of nations that can receive counterproliferation training and equipment in Eastern Europe, the Baltics, and the former Soviet Union. With additional multi-year funding, these initiatives could readily expand into additional nations within the region of concern.

3. *USCS*

There are five strategic steps that USCS plans to take with the support of DOE and DoD in support of their mission and longer-term objectives:

- Carry out a Technology Assessment Program at Harvey Point, North Carolina to assess existing and developing technologies in the area of nuclear detection. These presentation will aid USCS in determining the most effective and efficient equipment to procure in the future. (Estimated cost: $0.4M)

- Develop and conduct practical training courses for USCS field personnel based on existing training initiatives conducted by DOE and DoD laboratories. (Estimated cost: $1.2M)

- Train and maintain a USCS Nuclear Interdiction Response Team (Estimate cost: $0.2M)

- Upgrade existing and proposed equipment to add radioactive detection capabilities (e.g., x-ray systems). (Estimated cost: $2.4M)

- Procure and strategically place radiation detection and analysis equipment at ports or entry. (Estimated cost: Under development)

1443(b)(5)

Plans for establishing appropriate centers for analyzing seized nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

A. NUCLEAR/RADIOLOGICAL WEAPONS AND MATERIALS

OVERVIEW

DOE laboratories or sites will provide analysis of nuclear material or weapons seized as part of law enforcement or counterterrorism operations. The capabilities which now exist and those required to fulfill this mission are described below. DOE support to U.S. Government or international operations are part of broader nonproliferation and counterproliferation programs to counter nuclear smuggling and terrorism.

The comprehensive DOE program to counter the smuggling of nuclear materials is described separately. The attribution of material or samples seized in law enforcement or intelligence operations and the assessment (usually without the benefit of actual material) of suspect transactions are important components of this program.

There is a U.S. Government interagency program dedicated to the location and render safe of a nuclear or radiological device; these are national assets of the federal government and stand ready to deploy on short notice worldwide. Planning for the disposition of a seized weapon or device is currently a part of the program.

U.S. GOVERNMENT ORGANIZATIONAL STRUCTURE FOR MEETING THE CHALLENGE

DOE has agreements with the FBI, USCS and others with regard to technical and analytical support of investigations and emergencies involving radioactive material or weapons. Much of the capability to infer and assess the origin and credibility of nuclear material is in place as part of the DOE's Threat Credibility Assessment Program. It is the national laboratories' knowledge and expertise that provides for a seamless integration of analysis obtained during the nuclear material trafficking investigation with the analysis of a recovered nuclear weapon.

New emphasis on chemical and physical analysis of seized samples has been prompted by the interdiction of enriched nuclear materials in four cases in 1994 and more than one hundred suspect transactions reported since then. DOE national laboratories provide the technology base to analyze seized radioactive material; additional effort is required to fully organize and complete this capability.

The U.S. Government has an organizational structure for developing detailed plans for the disposition of seized weapons of mass destruction. Needed planning and exercises to include all national assets are described below.

PROGRAMS

CURRENT PROGRAMS/CAPABILITIES

A. Forensics and attribution of seized material

The interdiction of smuggled nuclear material provides an opportunity to trace its origin and transport. With encouragement from the P-8 countries, an International Conference on Nuclear Smuggling Forensic Analysis was held at a DOE National Laboratory in November 1995. Subsequent meetings in Karlruhe and Moscow of scientific, law enforcement and public policy representatives have established the basis for future cooperation in Europe and Asia on nuclear forensics. An international exercise for forensic analysis of high enriched uranium and plutonium is being planned for the coming months.

Within the U.S., an interlaboratory exercise was concluded this summer. It successfully benchmarked capabilities of the national laboratories. Within hours of receipt, DOE had characterized the nuclear isotopes, screened for high explosives and performed various spectroscopy and chemical analysis to determine the makeup of the sample. The latter provides clues about the sample beyond its simple nuclear isotopic formula. In combination with law enforcement and intelligence information, the U.S. would then hope to deduce how the material was packaged and transported.

B. Assessment of suspect transactions

Most often, material is not available for analysis. DOE has reviewed and assessed illicit nuclear materials sales for numerous U.S. and non-U.S. government agencies and maintains the only U.S. government database dedicated solely for this purpose. DOE maintains data on the flow and composition of nuclear smuggling, detailing the quality of smuggled material, the source of the material and its intended use. Reported incidents and the materials being seized and/or offered for sale are examined in depth. Seventy-five transactions were assessed in FY1996. Comprehensive summaries of illicit nuclear materials transactions are produced in monthly and annual reports to aid the law enforcement, policy, intelligence, and diplomatic communities in the understanding of trends and methods used in such transactions.

C. Disposition of seized weapons

Planning activities for recovery operations (Phase I Operations) have been conducted for the past several years.

PROGRAMS IN PLANNING OR REVIEW PHASES

A. Attribution of seized nuclear material

The next step beyond prototyping the forensics will be to operationalize the capability. The intent is to do so with the inclusion of one exercise annually. This must include clear protocols among DOE, FBI and USCS (domestically) and international agencies/foreign governments to provide for promptness and legal integrity of evidence. Additionally, it is planned to develop in cooperation with other federal and international agencies a Nuclear Forensics Implementation Support Tool; in effect, a library of libraries for forensic baselines, e.g., soil samples from around the world as well as such things as isotopics of various nations' nuclear feedstock, country of origin of containers and packaging. $1M in FY1997, $2M in FY1998, $3M each FY afterward.

B. Expansion of the contingency planning to include all national assets and the final disposition of seized weapons/devices

This planning will leverage the information and plans developed in the Phase I planning, but will be conducted separately in order to protect sensitive information regarding the conduct of those operations. $2M in FY1997, $3M each FY starting in FY1998.

C. Area surveys and preparations of remote sites for the disassembly of nuclear weapons

The activities in FY1997 will be primarily plan development, FY1998 activities will include procurement and pre-positioning of equipment, FY1999 operations will begin baseline management of the capability. $2M in FY1997, $5M in FY1998, $2M in each FY starting in FY1999.

FUNDING

The forensics effort is $1M in FY1997 and is expected to increase to $2M in FY1998 and $3M each year thereafter. This is shown as part of the Nuclear Smuggling Initiative discussed elsewhere.

Expansion of the contingency planning to include all national assets and the final disposition of seized weapons/devices. $2M in FY1997, $3M each FY starting in FY1998.

Area surveys and preparations of remote sites for the disassembly of seized nuclear weapons. $2M in FY1997, $5M in FY1998, $2M in each FY starting in FY1999.

B. BIOLOGICAL, CHEMICAL WEAPONS OR MATERIALS

OVERVIEW

FEMA is responsible for ensuring the Federal Response Plan is adequate for responding to the consequences of terrorism involving nuclear/biological/chemical materials or weapons. DoD possesses significant assets that, at the onset of a domestic nuclear, chemical, or biological terrorism incident, will be integrated into a coordinated federal resolution effort, including response assistance to the FBI for crisis management and to FEMA for consequence management.

A recent Secretary of Defense review of military assistance to civil authorities clearly established an integrated DoD response mechanism to support a Federal response to any domestic terrorism event. All DoD assistance will be personally managed by the Secretary of Defense, and assisted by the Chairman of the Joint Staff (CJCS) and the Secretary of the Army. The CJCS will assist the Secretary of Defense for crisis management through the Joint Staff. The Secretary of the Army will assist the Secretary of Defense for consequence management through the Director of Military Support. DoD crisis management will be provided through the national interagency terrorism response system. DoD crisis management response forces will be employed under the operational control of the Joint Special Operations Task Force (JSOTF). Units supporting the Federal consequence management response will be under the operational control of the Response Task Force; the Commander, Response Task Force will provide direct support to the JSOTF commander. The Response Task Force will be assigned to the appropriate Unified Combatant Commander (CINC).

DoD units and organizations can provide analysis of biological or chemical weapons or materials seized as part of law enforcement or counterterrorism operations. These capabilities are described below.

DoD Response Capabilities

The Defense Department special mission unites are capable of operating in an nuclear, biological, or chemical environment and are tasked with the responsibility of responding during a terrorist crisis. The Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (SO-LIC) has established the structure of DoD support to the nuclear, chemical, or biological interagency terrorist crisis management capability and is in the process of refining it. Additionally, a focused effort is now underway to organize a robust consequence management response capability integrated with local, State, and Federal authorities in accordance with The Defense Against Weapons of Mass Destruction Act of 1996. Several DoD elements have expertise that will be called upon.

DoD provides a 24-hour a day, on-call emergency response capability to respond to nuclear, biological, or chemical incidents with personnel trained in nuclear, biological, chemical, and explosive ordinance disposal operations. DoD personnel perform render-

safe procedures; provide damage limitation, reconnaissance, recovery, sampling, mitigation, decontamination, and transportation; and perform or recommend final disposition of weaponized and non-weaponized nuclear, biological, or chemical materials.

DOE Forensic Capabilities

The DOE Chemical and Biological Weapon Nonproliferation Program was initiated in October 1996, in response to the Fiscal 1997 Energy and Water Development Appropriations Act which allocated $17M in FY1997 for DOE research and development on measure to counter the proliferation of chemical and biological weapons and their related technologies.

The Department in coordination with the DOE national laboratories with their significant capabilities in the chemical and biological sciences is focusing its program in several areas including detection technologies and forensics. This leverages their significant capabilities in the chemical and biological sciences to address high priority gaps in the nation's ability to mitigate the spread of these weapons of mass destruction. The DOE laboratories have traditionally performed forensic analyses on chemical and biological samples for the law enforcement and intelligence communities, and have established capabilities in the identification of chemical and biological agents obtained from diverse environmental samples.

DOE is applying these capabilities to assist law enforcement and other agencies in their search for forensic signatures associated with suspicious disease outbreaks and/or chemical releases, domestically and abroad. As a result, the Department is forgoing new partnerships with military, intelligence, law enforcement, and emergency response organizations at the Federal, State, and local levels.

Biological Weapons/Chemical Weapons Response

The Chemical and Biological Counterterrorism response capability within DoD falls under the Joint Staff working closely with other federal agencies. The U.S. Army Chemical and Biological Defense Command (CBDCOM) also develops technological countermeasures and equipment that provide rapid warning and facilitate quick response in the event of a chemical or biological incident. Under CBDCOM, the Edgewood Research, Development, and Engineering Center (ERDEC) also maintains a rapidly deployable mobile environmental monitoring and technical assessment system, the Mobile Analytical Response System. This system provides state-of-the-art analytical assessment of chemical or biological hazards at an incident site.

Also under CBDCOM is the U.S. Army Technical Escort Unit which is a specialized army unit with missions of escorting the movement of chemical or biological material and finding, rendering safe and disposing of chemical or biological munitions. This unit maintains a 24-hour, on-call alert team that will be specifically tailored to a current

situation for both the crisis and consequence management response. Among the different missions these units perform are:

- Recon mission - conduct reconnaissance of the incident site; identify munitions and hazards; perform render safe procedures on munitions; gather samples of suspect biological/chemical agents; provide small-area decontamination; and advise the on-scene coordinator on personnel and equipment requirements.

- Decon mission - conduct decontamination of personnel exiting the incident site; control entry/exit at the site; and secure clothing/equipment of processing personnel.

Under the U.S. Army Medical Research and Material Command (USAMRCD), the U.S. Army Medical Research Institute of Infectious Diseases (USAMRIID) develops strategies, products, information, procedures, and training for medical defense against agents of biological origin and naturally occurring infectious diseases of military importance that require special containment. USAMRIID has many existing capabilities which can be directly employed for evaluating terrorist incidents from the initial communication of the threat or incident to its resolution. These capabilities include technical expertise to assist in the evaluation of threat capability in relation to specific agent or agents; assist in the evaluation of delivery methods and their impacts; identification of biological agents (infectious and toxic) in samples from an incident; technical and biomedical expertise required to protect personnel responding to such a terrorist incident or to decontaminate personnel and facilities; technical expertise to accomplish medical and operational planning; special vaccines for personnel who respond to or are the target of such incidents; and specialized transport of limited numbers of biological casualties under containment conditions to a receiving medical facility. A key capability of the Institute is its staff of physicians who are experienced clinicians and also understand the unique diagnostic and therapeutic challenges posed by biological warfare agents, information with which most physicians are not familiar.

The Naval Medical Research Institute (NAMRI) provides basic and applied research competence in infectious diseases, immunobiology/tissue transplantation, diving and environmental medicine, blood research, and human factors directly related to military requirements and operational needs. The Biological Defense Research Program has designed reagents, assays, and procedures for agents classically identified as biological threats as well as non-classical threat agents, in environmental and clinical specimens. This program has developed rapid, hand-held screening assays and immunoassays for clinical and environmental samples which can be deployed globally.

The U.S. Marine Corps Chemical/Biological Incident Response Force (CBIRF) is a consequence management response force tailored for short notice response to chemical and/or biological incidents. This self contained response force has five elements: command; chemical and biological detection/identification and decontamination; medical; security; and service support. A unique feature of the CBIRF is its electronic linkage to

an Advisory Group of civilian experts in chemical and biological matters and disaster response who will advise the CBIRF in training and during incident response. The CBIRF is also supported by a deployable laboratory from the Navy Medical Research Institute. This laboratory is capable of detecting and identifying biological agents.

1443(b)(6)
Plans for establishing in the U.S. appropriate legal controls and authorities relating to the exporting of nuclear, radiological, and chemical weapons, and related materials and technologies.

OVERVIEW

The U.S. maintains a comprehensive system of export controls, which has as one of its most important objectives preventing the transfer of goods, technology or technical data where such transfer would assist the development, acquisition, or use of weapons of mass destruction or missile delivery systems. As appropriate, these controls are closely coordinated with international export control regimes. Violations of U.S. export control laws can be punished by severe criminal penalties, including substantial periods of imprisonment.

U.S. GOVERNMENT ORGANIZATIONAL STRUCTURE FOR MEETING THE CHALLENGE

With the solid foundation for national export control systems laid in place by the interagency export control working group under the Cooperative Threat Reduction program, the DOE multi-year export control plan is designed to supplement current U.S. export control activities and to provide for continuity of export control assistance to the foreign Soviet Union. The DOE plan supports U.S. nonproliferation policy, including Presidential Decision Directive-13, Presidential Decision Directive-41, the Nuclear Nonproliferation Act of 1978, and the Atomic Energy Act of 1954, as amended. The DOE former Soviet Union export control program is implemented through both government-to-government channels and laboratory-to-laboratory initiatives.

CURRENT PROGRAMS/CAPABILITIES

NUCLEAR

To address export control issues, DOE has developed a unique, multi-year Plan for Cooperation on Export Controls in the former Soviet Union. The Plan is designed to harness former Soviet Union experts' technical knowledge in the export licensing review process, specifically focusing on commodities covered under the

Nuclear Suppliers Group lists and the Zangger Committee Trigger List, including specially designed or prepared equipment or material for the processing, use, or production of special fissionable material. Benefiting from the past several years of U.S. policy level interaction with former Soviet Union government counterparts, DOE has noted the particular need for engaging their scientific experts in the export control process. Thus, the DOE focus is on the scientific community.

Under the Atomic Energy Act, the export of fissile materials, facilities for the production or utilization of nuclear materials (e.g., nuclear reactors) or major components of such facilities is subject to licensing by the NRC. Significant nuclear exports require a government-to-government agreement for cooperation, that among other things, obligates a non-nuclear weapons state recipient to accept IAEA safeguards on all its nuclear activities.

DOE has six laboratory-to-laboratory agreements in place, including three in Russia, two in Ukraine and one in Kazakstan. Additionally, DOE is cooperating bilaterally with former Soviet Union governments to design effective workshops and seminars to strengthen their national export control systems.

DOE seeks to maintain its current laboratory-to-laboratory programs already in place. Additional initiatives will include establishing a laboratory-to-laboratory program with Snezhinsk, formerly known as Chelyabinsk-70 and Kremlev, formerly Arzamas-16, both weapons laboratories in Russia. Further, while the DOE former Soviet Union Export Control Plan does not limit attention or resources to the four inheritors of nuclear weapons, budget constraints have not allowed for expansion to other Soviet republics.

To maintain the current DOE former Soviet Union export control programs, funding for FY1998-2003 is estimated to be approximately $3M per year.

CHEMICAL/BIOLOGICAL

- The Arms Export Control Act and its implementing regulations provide broad authority to control the export of chemical or biological warfare agents, munitions capable of disseminating such agents, or related technical data.

- Precursor chemicals, biological cultures, and certain types of dual-use equipment capable of contributing to the production of chemical or biological weapons are subject to DOC export license under the Export Administration Act.

- The Chemical Weapons Convention, which has been submitted to the Senate for advise and consent to ratification, prohibits the production or possession of chemical weapons and requires parties to maintain export controls on certain precursor chemicals.

- Currently, the multilateral Australia Group coordinates international implementation of export controls on chemical and biological weapons-related items.

- The production, possession, or use of biological weapons is banned by the Biological and Toxin Weapons Convention, to which the U.S. is a party, and its implementing legislation. Federal law also prohibits the production or possession of biological weapons within U.S. jurisdiction.

MISSILE

- The Arms Export Control Act subjects missiles, their major components, and related technical data to export licensing by the DoS.

- The export of certain dual-use items-with potential application to missiles is licensed by the DOC.

- Export controls on missile-related items are coordinated through the international Missile Technology Control Regime.

1443(b)(7)
Plans for encouraging and assisting governments of foreign countries to implement and enforce laws that set forth appropriate penalties for offenses regarding the smuggling of weapons of mass destruction and related materials and technologies.

OVERVIEW

The U.S. efforts to encourage and assist foreign governments in implementing and enforcing laws relating to smuggling of weapons of mass destruction are based upon the following tenets. They should:

- Further a basic policy commitment to nonproliferation;
- Develop the legal and regulatory foundation for an effective system of export control, including appropriate penalties for violations;
- Develop a licensing mechanism; and
- Strengthen enforcement systems, including customs and border controls aimed at preventing smuggling.

U.S. GOVERNMENT ORGANIZATIONAL STRUCTURE FOR MEETING THE CHALLENGE

The Office of Arms Transfers and Export Control Policy of the DoS's Bureau of Political Military Affairs chairs an interagency working group on export control cooperation. This group coordinates U.S. efforts to assist other countries to develop and implement effective export controls. Members of this group include representatives from DoS (chair), DOC, DOE, DoD, USCS, the Arms Control and Disarmament Agency, and the Intelligence Community. Goals are accomplished through bilateral and multilateral forums, seminars, and exchanges, training activities, and the provision of equipment.

CURRENT PROGRAMS/CAPABILITIES

Since 1991, the U.S. has been working with the states of the former Soviet Union and Central Europe, including conducting programs on the legal and regulatory foundation for export control. A variety of funding sources were used, including the Cooperative Threat Reduction Program for the four former Soviet Union nuclear weapons successor states, the Agency for International Development-funded Commercial Law Development Program for central Europe, and the Nonproliferation and Disarmament Fund throughout the region. Several activities are on-going using funds from the former and latter programs. Estimated costs to complete this program are $9.9M.

The nuclear successor states of the former Soviet Union and most of the states of central Europe have established some form of legal basis for their export control systems. Often, however, it is based on a number of executive orders. Only in Kazakstan and Lithuania has comprehensive export control law been passed by the Parliament. The U.S. is working with the remaining states to help them codify their laws and establish appropriate enabling regulations. Although all agencies in the export control group participate, the DOC, has the lead on this part of the activities. DOC has developed an extensive library of training material in both English and Russian that can be readily adapted to meet a country's specific needs. Cooperation with customs and border control agencies has been led by the USCS.

Export control assessment teams will visit the states of the "Southern Tier" (except Azerbaijan) through March 1997 under a program funded by the DoS Nonproliferation and Disarmament Fund. The objective is to develop a comprehensive picture of the existing export control systems and identify specific areas where U.S. cooperation could be most effective. An essential element of this is the current status of laws, decrees, and regulations related to export control. Anticipating that further assistance will be needed in this area, the Nonproliferation and Disarmament Fund agreed to finance a series of bilateral seminars on the legal and regulatory issues involved in export control.

Under the FY1997 Defense Authorization, DoD and the FBI have begun cooperation to strengthen law enforcement assistance to former Soviet Union countries with the aim of reducing the dangers of nuclear smuggling. To a significant extent, this program will also emphasize assistance to the countries of the Caucasus and Central Asian regions.

1443(b)(8)

Plans for building the confidence of the U.S. and Russia in each other's controls over U.S. and Russian nuclear weapons and fissile material, including plans for verifying the dismantlement of nuclear weapons.

OVERVIEW

The need for more modern and effective nuclear material protection, control, and accounting systems in Russia, the former Soviet Union and the Baltics became apparent in 1992 following the breakup of the Soviet Union. In the initial response to these concerns, the U.S. began to address the nuclear material security issue in the former Soviet states which had nuclear weapons on their soil: Russia, Ukraine, Kazakstan, and Belarus. This cooperation was established through the Cooperative Threat Reduction Act. Programs of cooperation were established through agreements with the appropriate authority in each of these countries and the DoD, with the DOE as the agency responsible for their implementation. This assistance consisted of the provision of technology, training, and technical support.

In 1995, DOE signed an agreement with the Russian Federal Nuclear and Radiation Safety Authority, Gosatomnadzor, to establish a program which focused on the development of national nuclear regulatory systems. Also, DOE established independent efforts with other countries of the former Soviet Union which use or store highly enriched uranium or plutonium. Presidential Decision Directive-41 consolidated these efforts, giving DOE responsibility for the budget and implementation of the entire Material Protection, Control and Accounting Program across Russia, the former Soviet Union, and the Baltics, consolidating the effort under one agency. Since that time, the level of effort, the number of facilities and governmental cooperating partners, and funding have all risen dramatically to meet the need for improved material protection, control and accounting in these countries.

U.S. GOVERNMENT ORGANIZATIONAL STRUCTURE FOR MEETING THE CHALLENGE

Under Presidential Decision Directive-41, DOE was assigned responsibility to protect weapons-useable nuclear material in Russia, the Newly Independent States, and the Baltics. DOE formed the Material Protection, Control and Accounting Task Force in 1995, under the Office of Arms Control and Nonproliferation, to fulfill these obligations.

In conjunction with DOE's efforts, the NRC provides support, including regulatory development activities, such as licensing and inspection program development, and related training.

PROGRAMS

CURRENT PROGRAMS/CAPABILITIES

A. Material Protection, Control, and Accounting Program

The primary goal of DOE's Material Protection, Control and Accounting Program is upgrading security and accounting systems at all facilities in the former Soviet Union where separated plutonium or highly enriched uranium is located. The Material Protection, Control and Accounting Program cooperates with all sectors of the former Soviet nuclear complex which possess such materials except those with nuclear weapons under the control of the Russian Ministry of Defense. DoD has a separate program of cooperation on nuclear weapons control and accounting. Also, DOE works closely with nuclear regulatory authorities in Russia by initiating material protection, control and accounting training, assisting with the creation of regulatory documents and national systems for nuclear material control and accounting, and providing needed equipment for inspectors to carry out their responsibilities. DOE has also initiated material protection, control and accounting assistance programs for nuclear materials used by the Russian Navy and Icebreaker fleet and for nuclear materials during transportation in Russia.

Cooperation is underway across Russia in four sectors: the Ministry of Atomic Energy Civilian Complex, Independent Civilian Sector, Ministry of Atomic Energy Defense Complex, and the Naval Fuel Sector.

B. Ministry of Atomic Energy Civilian Complex:

DOE is providing material protection, control and accounting upgrades for the following facilities in the Ministry of Atomic Energy Civilian Complex:

Dimitrovgrad, Scientific Research Institute of Atomic Reactors
Elektrostal, Production Association Machine Building Plant
Obninsk, Institute of Physics and Power Engineering
Podolsk, Scientific Production Association Luch
Novosibirsk Chemical Concentrates Plant
Sverdlovsk Branch of the Scientific Research and Design Institute of Power Technology
Beloyarsk Nuclear Power Plant
Khlopin Radium Institute
St. Petersburg Central Design Bureau of Machine Building
Moscow Institute of Theoretical and Experimental Physics
Moscow Scientific Research and Design Institute of Power Technology

C. Ministry of Atomic Energy Civilian/Defense Complex:

In addition, DOE is providing assistance that cuts across the Ministry of Atomic Energy civilian and defense sectors in the form of training and transportation:

Russian Methodology and Training Center, Obninsk: DOE is assisting Ministry of Atomic Energy to fulfill its October 1994 mandate for the development of this training center. One of the primary goals of this project is to develop an indigenous and effective cadre of Russian training instructors in Material Protection, Control and Accounting systems, concepts, and technology.

Transportation Security: The initial project for improvement of nuclear material transportation in Russia began in May 1996. This project will make significant improvements to the security of nuclear materials transported by Ministry of Atomic Energy throughout Russia. Cooperation is being coordinated with a variety of Russian ministries through Eleron. In a separate program DoD has cooperated with the Ministry of Defense on warhead transportation and security.

D. Ministry of Atomic Energy Defense Complex:

DOE cooperation with the Ministry of Atomic Energy Defense Complex is underway at the following sites:

All-Russian Scientific Research Institute of Automatics (VNIIA)
Arzamas-16, All-Russian Scientific Research Institute of Experimental Physics (VNIIEF)
Chelyabinsk-65, Mayak Chemical Metallurgical Combine
Chelyabinsk-70, All-Russian Research Institute of Technical Physics (VNIITF)
Tomsk-7, Siberian Chemical Combine
All-Russian Scientific Research Institute of Inorganic Materials
Sverdlovsk-44, Urals Electrochemical Integrated Plant
Krasnoyarsk-26, Mining and Chemical Combine
Krasnoyarsk-45, Uranium Isotope Separation Plant
Eleron (Special Scientific and Production State Establishment)

E. Independent Civilian Sector:

Russian State Scientific Research Center-Kurchatov Institute

The DOE is cooperating with Gosatomnadzor, the Federal Nuclear and Radiation Safety Authority of Russia, which provides regulatory oversight of the Russian civilian nuclear complex. In June 1995, DOE and Gosatomnadzor signed an agreement for cooperation on nuclear Material Protection, Control and Accounting. DOE and Gosatomnadzor representatives met in October 1995, agreeing to cooperate in six areas: Regulatory Document Development; Development of the Russian Federal Materials Control and Accountability Information System; Provision of Materials Control and Accountability Equipment for Inspectors; Development of the Gosatomnadzor Material Protection; Control and Accounting Oversight Information System, Training; and, Material Protection, Control and Accounting Facility Upgrades. Gosatomnadzor selected the following six sites for material protection, control and accounting upgrades:

St. Petersburg Institute of Nuclear Physics (PNPI), Gatchina
Karpov Institute of Physical Chemistry, Obninsk
Moscow Engineering Physics Institute (MEPhI)
Joint Institute of Nuclear Research (JINR), Dubna
Nickel Metallurgical Combine, Norilsk
Tomsk Polytechnic University (TPU)

F. Naval Nuclear Fuel Sector:

Through cooperation with the Kurchatov Institute, DOE has negotiated a series of steps with the Russian Navy to strengthen material protection, control and accounting for Russian naval nuclear unirradiated or fresh fuel. The first technical meeting between DOE and Russian Navy representatives occurred in September 1995. The work in 1996 focused on upgrades at two naval fuel storage facilities plus a naval research facility located at the Kurchatov Institute. In February 1996, 12 Russian Naval officers from Navy Headquarters in Moscow and the Northern and Pacific Fleets attended a workshop presented by U.S. specialists at the Kurchatov Institute on analysis of vulnerabilities that an effective safeguards system must take into account. In April 1996, three Naval officers and five representatives of the Kurchatov Institute visited DOE Headquarters and several of the National Laboratories to attend briefings and observe DOE material protection, control and accounting methodologies. A visit by U.S. experts to a naval facility outside of Murmansk was completed in May 1996. Upgrades at Russian naval fuels storage facilities are being designed and implementation is beginning this year. In addition, following a series of visits to Murmansk Shipping Company in the summer of 1996, cooperation has also begun to upgrade security for highly enriched uranium fuels used to power Russian nuclear icebreakers.

FUNDING

BUDGET SUBMISSION FOR FY98-2003:

Material Protection, Control, and Accounting Program

1998 request:	$140M
1999 projected request:	$156M
2000 projected request:	$104M
2001 projected request:	$70M
2002 projected request:	$34M
2003 projected request:	$0

1443(b)(9)

Plans for reducing U.S. and Russian stockpiles of excess plutonium.

(A) Consideration of the desirability and feasibility of a U.S.-Russian agreement governing fissile material disposition and the specific technologies and approaches to be used for disposition of excess plutonium, and

(B) An assessment of the options for U.S. cooperation with Russia in the disposition of Russian plutonium.

OVERVIEW

The U.S. is committed to safeguarding and reducing U.S. and Russian stockpiles of excess weapons plutonium as quickly as practicable, while ensuring effective nonproliferation controls. Safeguarding and reducing these excess stockpiles will help reduce the risks of nuclear theft and terrorism and contribute to the irreversibility of nuclear arms reductions.

U.S. GOVERNMENT ORGANIZATIONAL STRUCTURE FOR MEETING THE CHALLENGE

Efforts in this area are overseen by an interagency plutonium disposition group, co-chaired by the NSC and the Office of Science and Technology Policy (OSTP). Implementation actions are primarily the responsibility of DOE, though the DoS plays a leading role in relevant negotiations and other discussions with Russia and other countries.

On January 14, 1997, DOE issued a Record of Decision setting forth a strategy to irreversibly dispose of the nation's surplus weapons plutonium and to reduce from seven to three the number of sites where surplus nuclear materials are stored. The fundamental purpose of the storage and disposition program is to provide for the safe, secure, environmentally sound and inspectable future storage of all weapons-usable fissile materials (primarily plutonium and highly enriched uranium) and the disposition of fissile materials declared excess to national security needs.

The Administration's approach to the disposition of U.S. surplus plutonium is to pursue a dual-track strategy that allows for immobilization of surplus plutonium in glass or ceramic material with highly radioactive fission products, and burning of some of the surplus plutonium as mixed oxide fuel in existing domestic commercial reactors. These options would both meet the "spent fuel standard;" that is, they would transform the excess weapons plutonium into a form in which it would be roughly as inaccessible and unattractive for recovery and use in weapons as the plutonium in ordinary spent fuel from commercial reactors. In both cases, the resulting plutonium-bearing wastes (immobilized plutonium forms or spent fuel) would be stored for an interim period and then disposed of in a geologic repository pursuant to the Nuclear Waste Policy Act. The U.S. preserves the option of burning mixed oxide fuel in Canadian Deuterium Uranium (CANDU) reactors in the event of a multilateral agreement to do so among Russia, Canada, and the U.S.. The timing and extent to which either or both of these immobilization and mixed oxide disposition options are ultimately deployed will depend upon the results of future technology development and demonstrations, follow-on (tiered) site-specific environmental review, contract negotiations, and detailed cost proposals, as well as nonproliferation considerations and agreements with Russia and other nations. DOE's program will be subject to the highest standards of safeguards and security throughout all aspects of storage,

transportation, and processing, and will include, when appropriate, IAEA verification as soon as practical. DOE has estimated that the net life-cycle cost of implementing this dual-track strategy will be approximately $2.2B (discounted net present value) over the life of the project.

As noted in the nonproliferation and arms control assessment prepared by DOE, the dual-track strategy would provide increased flexibility, ensuring that plutonium disposition could be initiated on schedule even if one of the approaches ultimately failed or was delayed. Establishing the means for expeditious plutonium disposition will also help provide the basis for an international cooperative effort that may result in reciprocal, irreversible plutonium disposition actions by Russia. This disposition strategy signals a strong U.S. commitment to reducing its stockpile of surplus plutonium. Planned programs will provide the basis and flexibility for the U.S. to initiate plutonium disposition either multilaterally or bilaterally through negotiations with other nations, or unilaterally as an example to Russia and other nations.

The use of mixed oxide fuel in existing reactors would be undertaken in a manner consistent with U.S. policy objectives to make the nuclear disarmament process irreversible and not to encourage the civilian use of plutonium. To this end, implementing the mixed oxide alternative would be characterized by government ownership and control of the mixed oxide fuel fabrication facility at a DOE site and use of the facility only for the surplus plutonium disposition program. There would be no reprocessing of spent mixed oxide fuel. Instead, the fuel would be used in a once-through fuel cycle in existing reactors, with appropriate arrangements, including contractual or licensing provisions and limiting use of mixed oxide fuel to surplus plutonium disposition, to discourage general civil use of plutonium-based fuel.

This Administration is committed to working closely with Russia and other nations to establish a cooperative program to implement disposition of Russian excess plutonium on a parallel track. The U.S. believes that U.S. and Russian stockpiles of excess plutonium should be reduced in parallel, with the goal of eliminating all excess weapons grade plutonium resulting in each side having roughly equal remaining stocks of plutonium in military stockpiles. International cooperation, including cooperative approaches to the financing of plutonium disposition in Russia, is likely to be essential to success in reducing Russian excess plutonium stockpiles. The U.S. and Russia have substantially different views concerning the costs and risks posed by civilian plutonium fuel cycles. It appears likely that Russia will ultimately decide to pursue a disposition approach whose main emphasis is on the mixed oxide option, though with some limited use of immobilization as well.

PROGRAMS

CURRENT PROGRAMS/CAPABILITIES

As noted above, the Administration will pursue a strategy for U.S. plutonium disposition that allows for immobilization of surplus weapons plutonium in glass or ceramic forms and burning of the surplus plutonium as mixed oxide fuel in existing reactors. DOE has determined that at least eight metric tons of plutonium will be immobilized because it would not be suitable for use in mixed oxide fuel without extensive, and costly, purification. The Administration intends to move forward as rapidly as practicable to carry out tests and demonstrations of both options over the next several years. The extent to which either or both of these technologies is implemented will be determined in the future.

DOE has established a detailed program plan for implementing both of these approaches to plutonium disposition – with the built-in flexibility needed to modify U.S. approaches as circumstances warrant. Tests and demonstrations of key plutonium disposition technologies are already underway. For example, a full-scale "cold test" of the "can-in-canister" immobilization approach (described below) has already been conducted, and reactor fuel pellets made from weapons plutonium have been fabricated on a laboratory scale at Los Alamos National Laboratory; a full-scale prototype demonstration of the technology for safely and cleanly converting plutonium weapons components or "pits" to oxide is expected this year. Following a step-by-step program of further tests, demonstrations, and licensing procedures, DOE expects that full-scale disposition operations using both approaches could begin 8-13 years from now, and be completed by 24-31 years from now, assuming successful program implementation and continued Congressional support.

The mixed oxide option, if implemented, will make use of existing operating reactors and a government-owned mixed oxide fabrication facility licensed by NRC (either a new facility or a modification of an existing building or buildings). The number of reactors required for the mission is undetermined at this time, but is expected to be in the range of four to eight reactors for disposition of 50 metric tons of excess weapons plutonium over 20-30 years.

Based on analyses and tests to date, the most attractive immobilization approach appears to be the "can-in-canister" option, in which cans of plutonium-bearing immobilized material would be arrayed within large canisters into which molten glass containing intensely radioactive high-level waste would be poured. The resulting waste canisters would be generally similar to waste canisters already being produced, except for the inclusion of plutonium. The immobilization operation might be conducted at the Savannah River Site, making use of existing plutonium-handling glove-box facilities and the Defense Waste Processing Facility.

Alternatively, the operation might be conducted at the Hanford Reservation, where new immobilization facilities for high-level waste are planned. Selections of specific facilities will be made after site-specific environmental impact statements are complete.

To accomplish the U.S. plutonium disposition mission, DOE will use existing buildings and facilities to the extent practical to minimize costs and delays, and build new facilities where cost, environmental, safety, and other factors suggest that this would be the best approach. All disposition facilities will be designed or modified as needed, to accommodate any international inspection requirements to which the U.S. may agree, consistent with the President's nonproliferation policies.

Pursuant to its Record of Decision, DOE will pursue the following strategy and supporting actions for plutonium disposition:

- Immobilize plutonium materials using vitrification or ceramic immobilization at either Hanford or the Savannah River Site, in new or existing facilities. Immobilization could be used for either pure or impure forms of plutonium.

- Convert surplus plutonium materials into mixed oxide fuel for use in existing reactors. Pure surplus plutonium materials, including pits, pure metal, and oxides, could be converted without extensive processing into mixed oxide fuel for use in existing commercial reactors.

- DOE reserves as an option the potential use of some mixed oxide fuel in Canadian reactors in the event that a multilateral agreement to deploy this option is negotiated among Russia, Canada, and the U.S.. DOE will engage in a test and demonstration program for Canadian reactor mixed oxide fuel consistent with ongoing and potential future cooperative efforts with Russia and Canada.

Implementation of this strategy will involve some or all of the following supporting actions:

- Construct and operate a plutonium immobilization facility at either Hanford or the Savannah River Site. DOE will analyze alternative locations at these two sites for constructing new buildings or using modified existing buildings in subsequent, site-specific NEPA reviews. Savannah River Site has existing facilities (the Defense Waste Processing Facility) and infrastructure to support an immobilization mission. At Hanford, DOE is planning to construct and operate immobilization facilities for the wastes in Hanford tanks. DOE will not create new infrastructure for immobilizing plutonium with high-level waste or cesium at Idaho National Engineering Laboratory, the Nevada Test Site, Oak Ridge Reservation, or Pantex.

- Construct and operate a plutonium conversion facility for non-pit plutonium materials at either Hanford or Savannah River Site. DOE will collocate the plutonium conversion facility with the vitrification or ceramic immobilization facility discussed above.

- Construct and operate a pit disassembly/conversion facility at Hanford, Idaho National Engineering Laboratory, Pantex, or Savannah River Site (only one site). DOE will not introduce plutonium to sites that do not currently have plutonium in processing or storage. DOE will analyze alternative locations at Hanford, Idaho National Engineering Laboratory, Pantex, and Savannah River Site for constructing new buildings or using modified existing buildings in subsequent, site-specific NEPA review.

- Construct and operate a domestic, government-owned, limited-purpose mixed oxide fuel fabrication facility at Hanford, Idaho National Engineering Laboratory, Pantex, or Savannah River Site (only one site). As noted above, the Nevada Test Site and Oak Ridge Reservation will not be considered further for plutonium disposition activities. In follow-on NEPA review, DOE will analyze alternative locations at Hanford, Idaho National Engineering Laboratory, Pantex, and Savannah River Site for constructing new buildings or using modified existing buildings.

DOE's program for surplus plutonium disposition will be subject to the highest standards of safeguards and security for storage, transportation, and processing, particularly during operations that involve the greatest proliferation vulnerability, such as mixed oxide fuel preparation and transportation, and will include IAEA verification as appropriate. Transportation of all plutonium-bearing materials under this program, including the transportation of prepared mixed oxide fuel to reactors, will be accomplished using the DOE Transportation Safeguards Division's "Safe Secure Transports," which afford these materials the same level of transportation safety, safeguards and security as are used for nuclear weapons.

NEAR-TERM PROGRAM MILESTONES

A. Plutonium Conversion

1997-1998:	Full-scale prototype demonstration of the Advanced Recovery and Integrated Extraction System converting weapons pits to oxide
1997-1998:	Tests to demonstrate the effective removal of gallium from weapons plutonium and the acceptability of reduced gallium levels

1998:	Complete site-specific NEPA review
1998-1999:	IAEA & Russian acceptance of non-destructive assay technology as a component of plutonium disposition strategy
1998-1999:	Prototype upgrades complete

B. Immobilization

1997-1999:	Tests to demonstrate acceptability of material designs, plutonium loadings (including safety, proliferation resistance, repository performance) and solubility
1997:	Choose immobilization form (glass or ceramic)
1998:	Complete site-specific NEPA review
2000:	Can-in-canister "hot test" with waste and plutonium

C. Reactors and mixed oxide

1997-1998:	Fabrication and irradiation of mixed oxide pellets for materials tests
1998:	Select reactors (utilities) for possible irradiation services and contractor for development of mixed oxide fuel fabrication facility
1999-2000:	Confirm mixed oxide fuel formulations

LONGER-TERM PROGRAM MILESTONES (NOTIONAL)[1]

A. Plutonium Conversion

1998-2001:	Siting , licensing, permitting conversion facility
1999-2003:	Construction, modifications and pre-operation of conversion facility
2004 and beyond:	Start-up and operation of conversion facility

[1] Progress toward these milestones is contingent on comparable progress toward disposition of Russian excess plutonium

B. Immobilization

1998-2002:	Siting, licensing, permitting immobilization facility
2000-2003:	Construction, modifications and pre-operation of immobilization facility
2003:	Pilot plant production-scale can-in-canister demonstration
2004 and beyond:	Operation of immobilization facility

C. Reactors and mixed oxide

1998-2001:	Siting , licensing, permitting mixed oxide fabrication facility
1998-2001:	License modification for reactors
2002 and beyond:	Reactor modifications
2002-2006:	Construction, modification and pre-operation of mixed oxide fabrication facility
2007 and beyond:	Operation of mixed oxide fabrication facility

PLANS FOR RUSSIAN PLUTONIUM DISPOSITION

The U.S. is committed to working cooperatively with Russia and other countries to ensure that Russian stockpiles of excess weapons plutonium are reduced in parallel with reductions in the U.S. stockpile. A wide range of issues will have to be addressed to accomplish this objective.

Russia has not yet formally declared how much of its plutonium is excess to its defense needs, an essential first step that the U.S. is actively encouraging the Russian government to take. Moreover, while Russian officials have indicated that they plan to use the bulk of the Russian stockpile of excess plutonium as fuel in nuclear reactors, Russia has not made a formal decision concerning its plan for disposition similar to the DOE's Record of Decision. In addition, Russia must address the daunting challenges of dismantlement and disposition in the midst of severe economic dislocations and budget shortfalls. It is very likely, therefore, that international cooperation in implementing and financing the program will be required to accomplish disposition of excess Russian plutonium in the near term.

The U.S. has been pursuing cooperation in this area in both bilateral and multilateral fora. Bilaterally, at the request of Presidents Clinton and Yeltsin, U.S. and Russian experts carried out a detailed joint study of the options for plutonium disposition, published in September 1996. This study examined the technical aspects, costs, schedule, and environmental and nonproliferation implications of a range of disposition options, including both reactor and immobilization approaches. The study concluded that each of these approaches was technically feasible, and provided a wealth of data on the various disposition options. Following the completion of the joint study, the U.S. and Russia are jointly undertaking a variety of analyses and tests of key technologies, including immobilization, mixed oxide fabrication, safety analyses of mixed oxide use, and technologies for converting pits to oxide, among others. In the Nunn-Lugar-Domenici legislation, Congress provided $10M to DOE for these and other purposes related to the confirmation of irreversible weapons dismantlement. This work is overseen by a U.S.-Russian Plutonium Disposition Steering Committee, led by senior OSTP and DOE officials on the U.S. side, and a Deputy Minister of Atomic Energy on the Russian side. This panel also included senior U.S. and Russian laboratory experts.

In parallel with this official bilateral effort, the U.S. and Russia have also established an independent group of senior scientists, the U.S.-Russian Independent Scientific Commission on Disposition of Excess Weapons Plutonium, to make recommendations to the U.S. and Russian Presidents in this area. This group, consisting of five scientists on each side, completed its interim report in September 1996, recommending that both sides pursue the dual-track strategy later selected by the Clinton Administration, and that both sides take new steps related to transparency and security for nuclear materials as well. A follow-on report is expected this spring.

Multilateral governmental approaches to cooperation are actively being pursued with Russia and our Group of Seven partners. At the April 1996 Moscow Nuclear Safety and Security Summit, the P-8 agreed that programs should be put in place to accomplish plutonium disposition as quickly as practicable by converting plutonium to spent fuel or some other form equally as difficult to use in nuclear weapons. The leaders also agreed that plutonium disposition should be conducted under effective nonproliferation controls and that the mixed oxide and immobilization options were the most promising approaches. The summit endorsed international cooperation to accomplish these objectives, mandating a meeting of international experts to identify promising next steps. That meeting was held in Paris in October, 1996. The experts agreed that both mixed oxide and immobilization were important and complementary approaches, and discussed a variety of specific next steps to implement plutonium disposition. Discussion is continuing, with the goal of preparing decisions on further actions for future P-8 summits.

Like the U.S., Russia does not have large-scale, currently operational facilities for converting pits to oxide, fabricating plutonium oxide into mixed oxide fuel, or immobilizing plutonium. New facilities will have to be built, or existing facilities modified, to accomplish these missions. At the international experts' meeting, Russia, France, and Germany proposed the construction of a pilot-scale mixed oxide plant in Russia as a major initial step in plutonium disposition. The U.S. indicated that, as part of an overall strategy for timely disposition that included other elements, it could support such an approach if appropriate nonproliferation conditions were met. These conditions include stringent security and accounting for the nuclear materials, international verification, use of the facility only for excess weapons plutonium, and no reprocessing of the resulting spent mixed oxide fuel, at least until the disposition mission was complete. It should be noted that the U.S. would impose identical restrictions and international verification on its own disposition activities. International discussions of this proposed facility and associated nonproliferation and management issues are ongoing. The U.S. goal is to facilitate agreement on an implementable plan, including appropriate financing, so that disposition of Russian excess plutonium can be implemented as rapidly as practicable.

In bilateral discussions with Russia subsequent to the Paris experts meeting, the U.S. proposed joint development of a pit disassembly and conversion pilot plant for Russia. This system would extract pits, convert the plutonium metal to oxide and provide an accurate assay of the resulting material in sealed containers. This would not only demilitarize the pits but also provide a starting point for applying IAEA safeguards. FY1997 funds have been allocated by DOE for conceptual definition planning with Russia. Design and procurement would start in FY1998, with the objective of having this pilot plant converting Russian pits by FY2000.

As in the U.S., disposition in Russia could potentially make use of existing reactors and immobilization facilities. Russia has seven operational VVER-1000 reactors, its safest and most modern light-water reactors. If these reactors were not sufficient for disposition of the total stockpile of excess weapons plutonium, immobilization could provide an important complementary approach, as could the use of reactors in other countries, such as the eleven VVER-1000 reactors in Ukraine (with which Russia already has a nuclear fuel supply agreement), or Canadian reactors. In the future, if economic recovery provides sufficient resources for completion of additional reactors in Russia, these could be considered as well; however, the U.S. does not believe that new reactors are required for this mission, and it appears unlikely that international financing would be available for the construction of new reactors for this mission. Russia is currently immobilizing high-level waste from its RT-1 reprocessing plant at the Mayak facility. The resulting glass canisters are stored on site. The feasibility of using this facility for immobilizing plutonium using the can-in-canister concept has yet to be demonstrated.

Financing is perhaps the single most important barrier to implementing plutonium disposition in Russia. Several hundred million dollars in initial capital investment will be required to provide the necessary large-scale facilities. An international cooperative enterprise to finance and implement disposition in Russia, which would also contribute to ensuring implementation of effective nonproliferation controls, will likely be necessary. Options including both direct contributions from Group of Seven governments and barter arrangements, in which firms contributing to the construction of facilities would be paid by being provided commodities such as low-cost uranium and enrichment services, are being discussed.

The U.S. is already contributing financially to accomplishing near-term demonstrations and analyses needed to lay the groundwork for these larger-scale future programs, as noted above. Consistent with Congressional direction reflected in the Nunn-Lugar-Domenici legislation, the U.S. is considering undertaking a significant near-term contribution to demonstrate technologies for converting pits to oxide in Russia and provide facilities for implementing these technologies. At the same time, the U.S. is currently exploring different options for participation in an international cooperative enterprise to implement plutonium disposition in Russia, including the possibility of focusing initial U.S. participation primarily in areas of particular U.S. expertise, such as pit conversion. Specific arrangements for disposition options, financing, management, and nonproliferation conditions will be determined in the future in negotiations among the interested states.

PROGRAM MILESTONES

Program milestones for international cooperation in implementing disposition of excess plutonium in Russia will be established in negotiations involving Russia and other interested states, expected to occur during 1997-1999. The U.S. goal is to establish an implementable plan to ensure that disposition of Russian excess plutonium is carried out in parallel with disposition of U.S. excess plutonium, under effective nonproliferation controls.

CONSIDERATION OF THE DESIRABILITY AND FEASIBILITY OF A U.S.-RUSSIAN AGREEMENT

The Administration is examining the issues surrounding the possibility of negotiating a formal agreement on plutonium disposition with Russia. Such an agreement could establish a basis for building a broader system of limits on warheads and fissile materials as part of a regime for further reductions in nuclear arms, as proposed by President Clinton in his September 24, 1996, address to the United Nations. A plutonium disposition agreement could set out specified amounts of plutonium to undergo disposition on specified timetables (with some flexibility to take into account the likelihood of unforeseen implementation delays), allowing the U.S. and Russia to

move in parallel toward lower equal levels of plutonium remaining in their military stockpiles. Such an agreement would have the following benefits:

- Clearly demonstrating the U.S. and Russian commitment to eliminate these stockpiles as rapidly as practicable;
- Providing an essential element for a process of irreversibly eliminating warheads and weapons materials;
- Increasing predictability and stability in implementing plutonium disposition;
- Supporting our efforts to encourage international participation in implementation; and
- Providing greater public understanding of the process and reassurance that the excess plutonium will be safely disposed of.

For these reasons, the U.S. National Academy of Sciences, the U.S.-Russian Independent Scientific Commission on Disposition of Excess Weapons Plutonium, and a special Task Force of the Secretary of Energy's Advisory Board have all recommended that the U.S. pursue such an agreement with the Russian Federation. To date, the U.S. has been pursuing the essential first steps in technical cooperation, which are needed before full-scale disposition can be implemented, and which will help build the basis of trust and cooperation that would allow such an agreement to be negotiated.

FUNDING

For FY1998, DOE is requesting $104M for the Office of Materials Disposition (identical to the FY1997 budget), which includes the full required funding for U.S. disposition programs and a small amount for cooperation with Russia on disposition technologies, as directed by Congress. Additional amounts for implementation of specific cooperative projects with Russia may be financed by the DoS' Nonproliferation and Disarmament Fund, or other relevant programs. As noted earlier, the total program cost for disposition of U.S. excess plutonium is estimated at approximately $2.2B (discounted net present value) over the life of the program. (The 30 year timeline for this project makes it necessary to express total project cost in terms of discounted net present value.) DOE's 5-year budget plan includes $1B through 2002 for the Office of Materials Disposition, including $511M for construction of facilities. Possible requirements for future U.S. financial contributions to an international effort to implement plutonium disposition in Russia will be determined in negotiations among the interested states. Appropriate requests will then be made to Congress in subsequent years, as necessary.

1443(b)(10)
Plans for studying the merits and costs of establishing a global network of means for detecting and responding to terroristic or other criminal use of biological agents against people or other forms of life in the U.S. or any foreign country.

OVERVIEW

The issue presented in Section 1443(b)(10) is extraordinarily complex. It involves systems and technologies that are in the early stages of development. At the national level, this issue requires the coordination of the scientific and technological resources of a large number of Federal Departments and Agencies. The complexity increases at the international level. Thirdly, the issue is extremely broad because it involves "forms of life" other than human.

Many activities that can be related to this program have already been initiated and are underway. A critical forum for planning activities and developing a strategy to study the related threat of emerging and re-emerging infectious diseases is the National Science and Technology Council's Committee on International Science, Engineering, and Technology (CISET) and its Task Force on Emerging and Re-emerging Infectious Diseases which is co-chaired by the Centers for Disease Control and Prevention (CDC) and OSTP. The CISET EID Task Force, which was instituted as an Administration initiative under Vice President Gore in 1994, has undertaken an examination of the existing national and international mechanisms for surveillance, response, and prevention of outbreaks of emerging infectious diseases. This group has prepared a review of the U.S. role in detection, reporting, and response to these outbreaks and produced a final report in September 1995. Plans have been developed to create an ad hoc Working Group to conduct the study envisioned in this section.

U.S. GOVERNMENT ORGANIZATIONAL STRUCTURE FOR MEETING THE CHALLENGE

The U.S. Government will create an ad hoc working group of the CISET Task Force on Emerging and Re-emerging Infectious Diseases to develop the approaches to study the response to biological terrorism. The CISET Task Force includes representatives of all agencies involved in surveillance, response to, and prevention of emerging and re-emerging infectious diseases.

PROGRAMS

CURRENT PROGRAMS/CAPABILITIES

A. Department Of Health And Human Services

Food and Drug Administration (FDA)

The FDA continues to enhance its control over the importation of consumer products including foods, pharmaceuticals, medical devices, biological products, and cosmetics. The Agency's import computer link to the U.S. USCS and the import community, entitled OASIS, recently was brought on line in U.S. ports of entry. This system will not only provide FDA with substantial, uniform control over products entering the country but will enable FDA to close the ports of entry, in a relatively short period of time, to products from a specific country, manufacturer, or shipper if a problem of chemical or biological significance is detected. The FDA Office of Regulatory Affairs has also sought additional Department funding for further enhancement of the Southeast Regional Laboratory to enable FDA to develop and/or enhance laboratory methodology for biological pathogen detection and identification. Also, FDA plays an important role in CISET and participates in a number of committees and work groups. For example, FDA chairs two subcommittees--Product Availability and Anti-Microbial Resistance. The Product Availability Subcommittee of the Surveillance and Response Group reviews issues related to drug, biological, and diagnostic product shortages and international product availability as it relates to response to emerging and re-emerging infectious diseases. This Subcommittee will consolidate a list of diseases, conditions, products, manufacturers, and distributors to assist in anticipating, preventing and handling either emerging or re-emerging infections, including biological terrorism. Working with information from the World Health Organization and other international, regional and national bodies, as well as industry representatives, the Subcommittee will work to develop strategies to prevent shortages in surge capacity and other emergency situations, and to evaluate new drugs, vaccines, and diagnostic agents where existing products are inadequate. FDA will also be participating along with other U.S. Government agencies, European Union, South African, and Japanese representatives, the World Health Organization and possibly other organizations in the development of standards for development of a global system for surveillance of antibiotic resistance. Such a system might ultimately be useful in detecting incidents of biological terrorism. FDA has been involved in a variety of issues concerning products that have been and could potentially be used for either pre-treating or treating individuals that have been exposed to terroristic or

other criminal or military use of biological agents. FDA is currently working with DoD and other domestic and international governmental groups to develop investigational product and approval strategies for products which are impossible or difficult to study in human subjects. This situation provides a challenging environment to obtain informed consent in the treatment setting. FDA has worked with the Public Health Service's Office of Emergency Preparedness to make available needed counter-terrorism products within the current FDA regulatory framework that would ultimately affect stockpiling of pharmaceuticals and other medical products for use in response to potential catastrophic emergencies due to exposure to chemical or biological agents.

Centers for Disease Control and Prevention (CDC)

The CDC has primary responsibility for population-based health monitoring in the U.S. CDC, principally through the National Center for Infectious Diseases, monitors a variety of infectious agents, including many considered likely to be used in biological warfare or bioterrorism. Such monitoring is done in coordination with state and local health departments, and includes laboratory support for diagnostics and subtyping. CDC possesses the only non-DoD maximum containment lab in the U.S.. CDC is also the federal agency with primary responsibility for investigating and controlling domestic disease outbreaks, and is frequently called upon to investigate internationally as well. CDC investigations and analysis would be critical in determining whether an outbreak is unintentional or the result of intentional use of a biological agent. The National Center for Infectious Diseases has also been engaged in two other efforts of relevance. One involves preparation of a manual of necessary information on high priority biologic agents of mass destruction (including relevant microbiologic, biodispersal, environmental, clinical, and interventional data and subject matter experts). This manual is expected to be completed in 1997. The second is development and funding of an emergency response plan for infectious disease outbreaks, highlighting issues relevant to lab capacity, specimen handling, training, transport, media, communications and data handling. Three other programs of relevance to response to agents of mass destruction include CDC s Emergency Response Unit, which is located in the National Center for Environmental Health; the Division of Quarantine within the National Center for Infectious Diseases; and the Office of Health and Safety. The Emergency Response Unit has been heavily involved in emergency preparedness for natural and man-made disasters, training, and implementation of control measures. It coordinates closely with other federal agencies in emergency response. The Division of Quarantine has responsibility for limiting importation of high priority agents, and maintains quarantine stations at seven major airports around the U.S.. The Office of Health and Safety plays an important role in biosafety issues, and is

currently devising new implementation regulations for monitoring and controlling the shipment of etiologic biological agents.

The National Institutes of Health (NIH)

NIH is the lead U.S. agency for the conduct of biomedical and biobehavioral research. Research conducted through the NIH serves as a critical component of the underpinning for effective surveillance and response efforts for infectious diseases, including those that might be unleashed through criminal and terrorist activities. In FY 1996, the NIH spent $334M through the National Institute of Allergy and Infectious Diseases (NIAID) on research aimed at improving the understanding of infectious agents (excluding HIV/AIDS) and toward the development of effective diagnostic tools and preventive and treatment technologies. In FY 1996, the NIH spent an estimated $69M, primarily through NIAID, on studies relating specifically to emerging infectious diseases. In addition, the NIH supports the training of foreign scientists as part of collaborative research efforts with U.S. investigators. This training, which is conducted through programs of NIAID and NIH's Fogarty International Center, will contribute to the development of a skilled cadre of foreign scientists who would be well-positioned to participate in global surveillance and response activities for infectious agents. The NIH participates in all the aspects of the effort of the National Science and Technology Council's CISET Task Force on Emerging Infectious Diseases. In addition to participation in the CISET Task Force, the NIH serves on all sub-groups. The NIAID leads the Research and Training sub-group. Consistent with the recommendations of the CISET report on Emerging Infectious Diseases, the NIH, through both the NIAID and FIC, is working to strengthen cooperation with foreign partners on research and training on emerging infectious diseases. The NIH leads the effort on these issues under the auspices of the U.S.-Japan Common Agenda, the U.S.-European Union New Transatlantic Agenda, the Gore-Chernomyrdin Commission, and the Gore-Mbecki Commission.

B. Department Of Justice

FBI

The Hazardous Materials Response Unit of the FBI Laboratory was recently created (June 1996) to provide assistance in handling technical issues dealing with nuclear, biological, and chemical counterterrorism as well as environmental crime issues. The Unit is composed of seven (7) programs, one of which deals with the identification of microbiological agents and toxins derived from plant or microbiological origin. Staff, equipment, and facilities will be acquired over the next 3 to 4 years.

During that period of time, the Unit will increasingly provide a "hands-on" far-forward and in-house laboratory capability for the identification of biological agents arising from clinical and environmental sources. At the present time, the Unit is beginning to transition biological assays from the Navy's Biological Defense Research Program, but the overall role of the unit at present is largely administrative, advisory, and of providing coordination of other federal military and civilian assets.

C. Department Of Agriculture

The U.S. Animal and Plant Health Inspection Service, Veterinary Service Emergency Programs staff monitors foreign animal health and maintains an intensive surveillance system aimed at rapidly detecting and diagnosing outbreaks of exotic diseases in the U.S. and emerging or re-emerging animal diseases. When there is a suspicion of a foreign animal disease, a Foreign Animal Disease Diagnostician (an individual who has received intensive training in the diagnosis and identification of exotic animal diseases) makes an on-site investigation. Diagnostic specimens are collected and sent to either the National Veterinary Services Laboratories in Ames, Iowa, or the Foreign Animal Disease Diagnostic Laboratory in Plum Island, New York. If a foreign animal disease is diagnosed by either laboratory, prompt action is taken to eradicate the disease. If the disease was suspected to be the result of terroristic or other criminal use of biological agents, the Service would immediately alert other organizations involved in disaster management.

D. DOE

The DOE Chemical and Biological Weapon Nonproliferation Program was initiated in October 1996 in response to The Energy and Water Development Appropriations Act of 1997, which appropriated $17M in FY1997 for DOE research and development on technologies to counter the proliferation of chemical and biological weapons. The requested level of funding for FY1998 is $28M. Additional support for the DOE program is reflected in the May 1996 DoD, DOE, and Intelligence Community annual Counterproliferation Review Committee report to Congress calling for an integrated tri-agency research and development program to address chemical and biological weapons proliferation. In the areas of chemical and biological agent detection DOE draws on substantial experience in DNA-based detection technology to provide a new generation of field compatible, highly sensitive sensors which can identify different bio-strains as well as detect bio-engineered threats. For detection of bio-toxins, micro-separation techniques, mass spectrometry, and molecular recognition will be evaluated and the most promising technology will be selected for development. Complimenting these and other non-DOE agency sensor efforts is the development of an efficient, compact, sensor "front-end" for collection, concentration, and sample preparation. This front-end, or

components of it, will be applicable to a range of U.S. Government sensors currently under development which lack adequate, field-deployable collection and sample preparation capability.

E. DoD

U.S. Army Medical Research Institute of Infectious Diseases

The U.S. Army Medical Research and Materiel Command has a long standing research and development program in developing prophylactic, therapeutic, epidemiological, and diagnostic approaches to recognized biological and chemical threat agents. The U.S. Army Medical Research Institute for Infectious Diseases and the U.S. Army Medical Research Institute for Chemical Defense are the lead laboratories for medical biological and chemical defense, respectively. The Command continues to develop a number of new generation vaccines against agents such as botulism toxins, Yersinia Pestis, Venezuelan Equine Encephalitis virus and other biological threat agents, as well as, novel approaches to preventing and treating chemical agent exposure. As a result of these and other science and technology efforts, Command personnel have developed unique expertise in medical countermeasures and biological agent identification, handling and inactivation. In addition, preventive medicine and subject matter experts provide crucial training for first responders and other medical personnel on the medical management of chemical and biological casualties, advise on medical plans and operations, evaluate threat capability for specific chemical and biological agents in various scenarios and regularly train with interagency rapid response teams. The Command has a distinguished history of assisting in epidemiological studies worldwide by providing expert diagnostic approaches through development of far forward, confirmatory, and high containment reference laboratory capabilities.

Defense Advanced Research Projects Agency

Presently budgeted at the $2B level, the Defense Advanced Research Projects Agency is an integral part of the Office of the Secretary of Defense. The Agency's mission is to prevent technological surprise. Current programs related to Biological/Chemical detection and surveillance are: Real-time sensing, external protection, advanced diagnostics, and medical countermeasures. The Biological Sensors program goal is to provide real-time, pre-exposure detection, discrimination, and identification of the threat. In addition, DARPA maintains a supporting program in informatics to provide information for correct diagnosis and treatment, and to locate therapeutics.

Office of the Secretary of Defense

The DoD Surveillance and Response System is designed to strengthen the prevention of, surveillance of and response to infectious diseases that are a threat to military personnel and families, reduce medical readiness, or present a risk to U.S. national security. The system's purposes are to increase DoD's emphasis on prevention of infectious diseases, strengthen and coordinate its surveillance and response efforts, and create a centralized coordination and communication hub to help organize DoD resources and link with U.S. and international efforts. The resources to support the Surveillance and Response System include the following: existing resources already dedicated to prevention, surveillance and response, existing funding reprogrammed as System resources (approximately $3M annually for operations plus approximately $500,000 initially for start-up costs), and existing military billets (approximately 15) reassigned to the System.

F. White House Office Of Science and Technology Policy

A June 12, 1996, Presidential Decision Directive (NSTC-7) created an Emerging Infectious Disease Task Force and instructed it to create a global surveillance and response network for emerging infectious diseases. The Task Force is a subcommittee of the CISET and is co-chaired by OSTP and CDC.

PROGRAMS IN PLANNING OR REVIEW PHASES

Because surveillance for naturally-occurring infectious disease outbreaks is closely related to surveillance for terrorist use of biological agents, the Emerging Infectious Disease Task Force is an appropriate forum to conduct the study required by this section. The Task Force has already completed an assessment of the existing U.S. capability to conduct surveillance for emerging infectious diseases, and this assessment will form the basis for the proposed study. This study will be conducted by an ad hoc Working Group of the existing Task Force, which that will include representatives of all appropriate agencies, including the Intelligence Community, and will be capable of addressing those aspects of infectious disease surveillance that are unique to the terrorist use of biological agents.

As new programs are developed or planned programs are put in place, the Administration will continue to advise the Congress and the American people of U.S. and international efforts to counter concerns about weapons of mass destruction and related materials and technologies.

d. National Emergencies

(1) Report to Congress on the Declaration of a National Emergency and the Issuance of an Executive Order with Respect to the Afghan Taliban

THE WHITE HOUSE

OFFICE OF THE PRESS SECRETARY

TEXT OF A LETTER FROM THE PRESIDENT TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE

July 4, 1999

Dear Mr. Speaker: (Dear Mr. President:)

Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) and section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby report that I have exercised my statutory authority to declare a National emergency with respect to the threat to the United States posed by the actions and policies of the Afghan Taliban and have issued an executive order to deal with this threat.

The actions and policies of the Afghan Taliban pose an unusual and extraordinary threat to the national security and foreign policy of the United States. The Taliban continues to provide safe haven to Usama bin Ladin allowing him and the Al-Quida organization to operate from Taliban-controlled territory a network of terrorist training camps and to use Afghanistan as a base from which to sponsor terrorist operations against the United States.

Usama bin Ladin and the Al-Qaida organization have been involved in at least two separate attacks against the United States. On August 7, 1998, the U.S. embassies in Nairobi, Kenya, and in Dar es Salaam, Tanzania, were attacked using powerful explosive truck bombs. The following people have been indicted for criminal activity against the United States in connection with Usama bin Ladin and/or the Al-Qaida organization: Usama bin Ladin, his military commander Muhammed Atef, Wadih El Hage, Fazul Abdullah Mohammed, Mohammed Sadeek Odeh, Mohamed Rashed Daoud Al-Owhali, Mustafa Mohammed Fadhil, Khalfan Khamis Mohamed, Ahmed Khalfan Ghailani, Fahid Mohommed Ally Msalam, Sheikh Ahmed Salim Swedan, Mamdouh Mahmud Salim, Ali Mohammed, Ayman Al-Zawahiri, and Khaled Al Fawwaz. In addition, bin Ladin and his network are currently planning additional attacks against U.S. interests and nationals.

Since at least 1998 and up to the date of the Executive order, the Taliban has continued to provide bin Ladin with safe haven and security, allowing him the necessary freedom to operate. Repeated efforts by the United States to persuade the Taliban to expel bin

Ladin to a third country where he can be brought to justice for his crimes have failed. The United States has also attempted to apply pressure on the Taliban both directly and through frontline states in a position to influence Taliban behavior. Despite these efforts, the Taliban has not only continued, but has also deepened its support for, and its relationship with, Usama bin Ladin and associated terrorist networks.

Accordingly, I have concluded that the actions and policies of the Taliban pose an unusual and extraordinary threat to the national security and foreign policy of the United States. I have, therefore, exercised my statutory authority and issued an Executive order which, except to the extent provided for in section 203 (b) of IEEPA (50 U.S.C. 1072(b)) and regulations, orders, directives or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date:

—blocks all property and interests in property of the Taliban, including the Taliban leaders listed in the annex to the order that are in the United States or that are or hereafter come within the possession or control of United States persons;

—prohibits any transaction or dealing by United States persons or within the United States in property or interests in property blocked pursuant to the order, including the making or receiving of any contribution of funds, goods, or services to or for the benefit of the Taliban;

—prohibits the exportation, re-exportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of any goods, software, technology (including technical data), or services to the territory of Afghanistan under the control of the Taliban or to the Taliban; and

—prohibits the importation into the United States of any goods, software, technology, or services owned or controlled by the Taliban or from the territory of Afghanistan under the control of the Taliban.

The Secretary of the Treasury, in consultation with the Secretary of State, is directed to authorize commercial sales of agricultural commodities and products, medicine and medical equipment, for civilian end use in the territory of Afghanistan controlled by the Taliban under appropriate safeguards to prevent diversion to military, paramilitary, or terrorist end-users or end-use or to political end-use. This order and subsequent licenses will likewise allow humanitarian, diplomatic, and journalistic activities to continue.

I have designated in the Executive order, Mullah Mohhamad Omar, the leader of the Taliban, and I have authorized the Secretary of State to designate additional persons as Taliban leaders in consultation with the Secretary of the Treasury and the Attorney General.

The Secretary of the Treasury is further authorized to designate persons or entities, in consultation with the Secretary of State and the Attorney General, that are owned or controlled, or are acting for or on behalf of the Taliban or that provide financial, material, or technical support to the Taliban. The Secretary of the Treasury

is also authorized to issue regulations in the exercise of my authorities under the International Emergency Economic Powers Act to implement these measures in consultation with the Secretary of State and the Attorney General. All Federal agencies are directed to take actions within their authority to carry out the provisions of the Executive order.

The measures taken in this order will immediately demonstrate to the Taliban the seriousness of our concern over its support for terrorists and terrorist networks, and increase the international isolation of the Taliban. The blocking of the Taliban's property and the other prohibitions imposed under this executive order will further limit the Taliban's ability to facilitate and support terrorists and terrorist networks. It is particularly important for the United States to demonstrate to the Taliban the necessity of conforming to accepted norms of international behavior.

I am enclosing a copy of the Executive order [1] I have issued. This order is effective at 12:01 a.m. Eastern Daylight Time on July 6, 1999.

Sincerely,

William J. Clinton

[1] See section H1 of this compilation for text of this Executive Order.

(2) Report to Congress on Developments Concerning the National Emergency with Respect to Sudan [1]

Message from the President of the United States transmitting a report on developments concerning the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997, and matters relating to the measures in that Order, pursuant to 50 U.S.C. 1641(c)

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c) and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report on the national emergency with respect to Sudan that was declared in Executive Order 113067 of November 3, 1997.

William J. Clinton.
The White House, May 3, 1999.

PRESIDENT'S PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO SUDAN

I hereby report to the Congress on developments concerning the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997, and matters relating to the measures in that order. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c) ("IEEPA"), and section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c). This report discusses only matters concerning the national emergency with respect to Sudan that was declared in Executive Order 13067.

1. On November 3, 1997, I issued Executive Order 13067 (62 *Fed. Reg.* 59989, November 5, 1997—the "Order") to declare a national emergency with respect to Sudan pursuant to IEEPA. A copy of the order was provided to the Speaker of the House and the President of the Senate by letter dated November 3, 1997.

2. Executive Order 13067 became effective at 12:01 a.m., eastern standard time on November 4, 1997. On July 1, 1998, the Department of the Treasury's Office of Foreign Assets Control ("OFAC") issued the Sudanese Sanctions Regulations (the "SSR" or the "Regulations") (63 *Fed. Reg.* 35809, July 1, 1998). The Regulations block all property and interests in property of the Government of Sudan, its agencies, instrumentalities, and controlled entities, including the Central Bank of Sudan, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches. The SSR also prohibit (1) the importation into the United States of any goods or services of Sudanese origin

[1] House Document 106–58.

except for information or informational materials; (2) the exportation or reexportation of goods, technology, or services, to Sudan or the Government of Sudan except for information or informational materials and donations of humanitarian aid; (3) the facilitation by a U.S. person of the exportation or reexportation of goods, technology, or services to or from Sudan; (4) the performance by any U.S. person of any contract including a financing contract, in support of an industrial, commercial, public utility, or governmental project in Sudan; (5) the grant or extension of credits or loans by any U.S. person to the Government of Sudan; and (6) transactions relating to the transportation or cargo.

3. Since the issuance of Executive Order 13067, OFAC has made numerous decisions with respect to applications for authorizations to engage in transactions under the Sudanese sanctions. As of March 23, 1999, OFAC has issued 68 authorizations to non-governmental organizations engaged in the delivery of humanitarian aid and 198 licenses to others. OFAC has denied many requests for licenses. The majority of denialswere in response to requests to authorize commercial exports to Sudan--particularly of machinery and equipment for various industries-- and the importation of Sudanese-origin goods. The majority of licenses issued permitted the unblocking of financial transactions for individual remitters who inadvertently routed their funds through blocked Sudanese banks. Other licenses authorized the completion of diplomatic transfers, pre-effective date trade transactions, intellectual property protection, the performance of certain legal services, and transactions relating to air and sea safety policy.

4. At the time of signing Executive Order 13067, I directed the Secretary of the Treasury to block all property and interests in property of persons determined, in consultation with the Secretary of State, to be owned or controlled by, or to act for or on behalf of, the Government of Sudan. On November 5, 1997, OFAC disseminated details of this program to the financial, securities, and international trade communities by both electronic and conventional media. This information included the names of 62 entities owned or controlled by the Government of Sudan. The list includes 12 financial institutions and 50 other enterprises. As of March 17, 1999, OFAC has blocked approximately $730,000 during this reporting period.

5. During this reporting period, OFAC has collected three civil monetary penalties totaling more than $13,000 from three U.S. financial institutions for violations of IEEPA and the SSR. The violations related to funds transfers in which the Government of Sudan or an entity owned or controlled by the Government of Sudan had an interest or which involved commercial transactions relating to Sudan. OFAC, in cooperation with the U.S. Customs Service, is closely monitoring potential violations of the import prohibitions of the Regulations by businesses and individuals. Various reports of violations are being pursued aggressively.

6. The expenses incurred by the Federal Government in the six-month period from November 3, 1998, through May 2, 1999, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Sudan are reported to be approximately $360,000, most of which

represent wage and salary costs of Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureaus of Economic and Business Affairs, African Affairs, Near Eastern Affairs, Consular Affairs, and the Office of the Legal Adviser), and the Department of Commerce (the Bureau of Export Administration and the General Counsel's Office).

7. The situation in Sudan continues to present an extraordinary and unusual threat to the national security and foreign policy of the United States. The declaration of the national emergency with respect to Sudan contained in Executive Order 13067 underscores the United States Government's opposition to the actions and policies of the Government of Sudan, particularly its support of international terrorism and its failure to respect basic human rights including freedom of religion. The prohibitions contained in Executive Order 13067 advance important objectives in promoting the antiterrorism and human rights policies of the United States. I shall exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

(3) Continuation of the National Emergency with Respect to Sudan

THE WHITE HOUSE

OFFICE OF THE PRESS SECRETARY

TEXT OF A LETTER FROM THE PRESIDENT TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE

October 27, 1998

Dear Mr. Speaker: (Dear Mr. President:)

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the Federal Register for publication, stating that the Sudanese emergency is to continue in effect beyond November 3, 1998.

The crisis between the United States and Sudan that led to the declaration on November 3, 1997, of a national emergency has not been resolved. The Government of Sudan continues to support international terrorism and engage in human rights violations, including the denial of religious freedom. Such Sudanese actions pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure on the Government of Sudan.

Sincerely,

William J. Clinton

NOTICE

CONTINUATION OF EMERGENCY WITH RESPECT TO SUDAN

On November 3, 1997, by Executive Order 13067, I declared a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of the Government of Sudan. By Executive Order 13067, I imposed trade sanctions on Sudan and blocked Sudanese government assets. Because the Government of Sudan has continued its activities hostile to United States interests, the national emergency declared on November 3, 1997, and the measures adopted on that date to deal with that emergency must continue in effect beyond November 3, 1998. Therefore, in accordance with section 202(d) of the National Emer-

gencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency for 1 year with respect to Sudan.

This notice shall be published in the Federal Register and transmitted to the Congress.

William J. Clinton

The White House, October 27, 1998.

(4) Report to Congress on Developments Concerning the National Emergency with Respect to Iran [1]

Message from the President of the United States transmitting a 6-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12957 of March 15, 1995, pursuant to 50 U.S.C. 1641(c)

PRESIDENT'S PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO IRAN

I hereby report to the Congress on developments concerning the national emergency with respect to Iran that was declared in Executive Order 12957 of March 15, 1995, and matters relating to the measures in that order and in Executive Order 12959 of May 6, 1995, and in Executive Order 13059 of August 19, 1997. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c) (IEEPA), section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa–9(c). This report discusses only matters concerning the national emergency with respect to Iran that was declared in Executive Order 12957 and does not deal with those relating to the emergency declared on November 14, 1979, in connection with the hostage crisis.

1. On March 15, 1995, I issued Executive Order 12957 (60 Fed. Reg. 14615, March 17, 1995) to declare a national emergency with respect to Iran pursuant to IEEPA, and to prohibit the financing, management, or supervision by United States persons of the development of Iranian petroleum resources. This action was in response to actions and policies of the Government of Iran, including support for international terrorism, efforts to undermine the Middle East peace process, and the acquisition of weapons of mass destruction and the means to deliver them. A copy of the Order was provided to the Speaker of the House and the President of the Senate by letter dated March 15, 1995.

Following the imposition of these restrictions with regard to the development of Iranian petroleum resources, Iran continued to engage in activities that represent a threat to the peace and security of all nations, including Iran's continuing support for international terrorism, its support for acts that undermine the Middle East peace process, and its intensified efforts to acquire weapons of mass destruction. On May 6, 1995, I issued Executive Order 12959 (60 Fed. Reg. 24757, May 9, 1995) to further respond to the Iranian threat to the national security, foreign policy, and economy of the United States. The terms of that order and an earlier order imposing an import ban on Iranian-origin goods and services (Executive

[1] House Document 106–40, March 15, 1999.

Order 12613 of October 29, 1987) were consolidated and clarified in Executive Order 13059 of August 19, 1997.

At the time of signing Executive Order 12959, I directed the Secretary of the Treasury to authorize through specific licensing certain transactions, including transactions by United States persons related to the Iran-United States Claims Tribunal in The Hague, established pursuant to the Algiers Accords, and related to other international obligations and U.S. Government functions, and transactions related to the export of agricultural commodities pursuant to preexisting contracts consistent with section 5712(c) of title 7, United States Code. I also directed the Secretary of the Treasury, in consultation with the Secretary of State, to consider authorizing United States persons through specific licensing to participate in market-based swaps of crude oil from the Caspian Sea area for Iranian crude oil in support of energy projects in Azerbaijan, Kazakhstan, and Turkmenistan.

Executive Order 12959 revoked sections 1 and 2 of Executive Order 12613 of October 29, 1987, and sections 1 and 2 of Executive Order 12957 of March 15, 1995, to the extent they are inconsistent with it. A copy of Executive Order 12959 was transmitted to the Congressional leadership by letter dated May 6, 1995.

2. On August 19, 1997, I issued Executive Order 13059 in order to clarify the steps taken in Executive Order 12957 and Executive Order 12959, to confirm that the embargo on Iran prohibits all trade and investment activities by United States persons, wherever located, and to consolidate in one order the various prohibitions previously imposed to deal with the national emergency declared on March 15, 1995. A copy of the Order was transmitted to the Speaker of the House and the President of the Senate by letter dated August 19, 1997.

The Order prohibits (1) the importation into the United States of any goods or services of Iranian origin or owned or controlled by the Government of Iran except information or informational material; (2) the exportation, reexportation, sale, or supply from the United States or by a United States person, wherever located, of goods, technology, or services to Iran or the Government of Iran, including knowing transfers to a third country for direct or indirect supply, transshipment, or reexportation to Iran or the Government of Iran, or specifically for use in the production, commingling with, or incorporation into goods, technology, or services to be supplied, trans-shipped, or reexported exclusively or predominantly to Iran or the Government of Iran; (3) knowing reexportation from a third country to Iran or the Government of Iran of certain controlled U.S.-origin goods, technology, or services by a person other than a United States person; (4) the purchase, sale, transport, swap, brokerage, approval, financing, facilitation, guarantee, or other transactions or dealings by United States persons, wherever located, related to goods, technology, or services for exportation, reexportation, sale or supply, directly or indirectly, to Iran or the Government of Iran, or to goods or services of Iranian origin or owned or controlled by the Government of Iran; (5) new investment by United States persons in Iran or in property or entities owned or controlled by the Government of Iran; (6) approval, financing, facilitation, or guarantee by a United States person of any trans-

action by a foreign person that a United States person would be prohibited from performing under the terms of the Order; and (7) any transaction that evades, avoids, or attempts to violate a prohibition under the Order.

Executive Order 13059 became effective at 12:01 a.m., eastern daylight time on August 20, 1997. Because the Order consolidated and clarified the provisions of prior orders, Executive Order 12613 and paragraphs (a), (b), (c), (d) and (f) of section 1 of Executive Order 12959 were revoked by Executive Order 13059. The revocation of corresponding provisions in the prior Executive orders did not affect the applicability of those provisions, or of regulations, licenses or other administrative actions taken pursuant to those provisions, with respect to any transaction or violation occurring before the effective date of Executive Order 13059. Specific licenses issued pursuant to prior Executive orders continue in effect, unless revoked or amended by the Secretary of the Treasury. General licenses, regulations, orders, and directives issued pursuant to prior orders continue in effect, except to the extent inconsistent with Executive Order 13059 or otherwise revoked or modified by the Secretary of the Treasury.

The declaration of national emergency made by Executive Order 12957, and renewed each year since, remains in effect and is not affected by the Order.

3. On March 10, 1999, I renewed for another year the national emergency with respect to Iran pursuant to IEEPA. This renewal extended the authority for the current comprehensive trade embargo against Iran in effect since May 1995. Under these sanctions, virtually all trade with Iran is prohibited except for trade in information and informational materials and certain other limited exceptions.

4. There has been one amendment to the Iranian Transactions Regulations, 31 CFR Part 560 (the "ITR"), since my report of September 16, 1998. On November 10, 1998, section 560.603 was amended to eliminate dealings in Iranian-origin petrochemicals from the definition of 'reportable transactions' and to terminate the reporting requirement for subsidiaries' sales of oilfield supplies and equipment (63 Fed. Reg. 62940, November 10, 1998). The revised section 560.603 retains the reporting requirements covering crude oil and natural gas. A copy of the amendment is attached to this report.

5. During the current 6-month period, the Department of the Treasury's Office of Foreign Assets Control (OFAC) made numerous decisions with respect to applications for licenses to engage in transactions under the ITR, and issued 14 licenses. The majority of denials were in response to requests to authorize commercial exports to Iran—particularly of machinery and equipment for various industries—and the importation of Iranian-origin goods. The licenses that were issued authorized certain administrative, diplomatic, and financial transactions, and the importation of art objects for public exhibition. Pursuant to sections 3 and 4 of Executive Order 12959, Executive Order 13059, and consistent with statutory restrictions concerning certain goods and technology, including those involved in air safety cases, Treasury continues to consult

with the Departments of State and Commerce prior to issuing licenses.

Since September 15, 1998, more than 900 financial transactions involving Iran initially have been "rejected" by U.S. financial institutions based on their possible constituting transactions prohibited by IEEPA and the ITR. U.S. banks declined to process these instructions in the absence of OFAC authorization. Twelve percent of the 900 transactions scrutinized by OFAC resulted in investigations by OFAC to assure compliance with regulations by United States persons. As of January 29, 1999, such investigations have resulted in 15 referrals for civil penalty action and the issuance of 36 warning letters involving *de minimis* transactions. Numerous other cases are still undergoing compliance or legal review prior to final agency action.

Since my last report, OFAC has collected nearly $380,000 in civil monetary penalties from one U.S. financial institution, three companies, and eight individuals for violations of IEEPA and the Regulations.

6. On October 6, 1998, a Federal Grand Jury in Milwaukee, Wisconsin, returned a five-count indictment against a Wisconsin corporation and two if its officers for transactions relating to the illegal exportation of U.S. origin aircraft parts to Iran. Trial is scheduled for March 1999. On December 2, 1998, a Federal Grand Jury in Atlanta, Georgia, returned a 24-count indictment against a Georgia corporation and two of its officers for transactions relating to the illegal exportation of automobile parts to Iran.

The U.S. Customs Service has continued to effect numerous seizures of Iranian-origin merchandise, primarily carpets, for violation of the import prohibitions of the ITR. Various enforcement actions carried over from previous reporting periods are continuing and new reports of violations are being aggressively pursued.

7. The expenses incurred by the Federal Government in the 6-month period from September 15, 1998 through March 14, 1999, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iran are reported to be approximately $1.2 million, most of which represent wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near Eastern Affairs, the Bureau of Intelligence and Research, and the Office of the Legal Adviser), and the Department of Commerce (the Bureau of Export Administration and the General Counsel's Office).

8. The situation reviewed above continues to present an extraordinary and unusual threat to the national security, foreign policy, and economy of the United States. The declaration of the national emergency with respect to Iran contained in Executive Order 12957 and the comprehensive economic sanctions imposed by Executive Order 12959 underscore the Government's opposition to the actions and policies of the Government of Iran, particularly its support of international terrorism and its efforts to acquire weapons of mass

destruction and the means to deliver them. The Iranian Transactions Regulations issued pursuant to Executive Orders 12957, 12959, and 13059 continue to advance important objectives in promoting the nonproliferation and anti-terrorism policies of the United States. I shall exercise the powers at my disposal to deal with these problems and will report periodically to the Congress on significant developments.

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(5) Continuation of the National Emergency with Respect to Iran

THE WHITE HOUSE

OFFICE OF THE PRESS SECRETARY

March 10, 1999

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the national emergency declared with respect to Iran on March 15, 1995, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) is to continue in effect beyond March 15, 1999, to the Federal Register for publication. This emergency is separate from that declared on November 14, 1979, in connection with the Iranian hostage crisis and therefore requires separate renewal of emergency authorities. The last notice of continuation was published in the Federal Register on March 6, 1998.

The factors that led me to declare a national emergency with respect to Iran on March 15, 1995, have not been resolved. The actions and policies of the Government of Iran, including support for international terrorism, its efforts to undermine the Middle East peace process, and its acquisition of weapons of mass destruction and the means to deliver them, continue to threaten the national security, foreign policy, and economy of the United States. Accordingly, I have determined that it is necessary to maintain in force the broad programs I have authorized pursuant to the March 15, 1995, declaration of emergency.

William J. Clinton

The White House, March 10, 1999.

NOTICE

CONTINUATION OF IRAN EMERGENCY

On March 15, 1995, by Executive Order 12957, I declared a national emergency with respect to Iran pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of the Government of Iran, including its support for international terrorism, efforts to undermine the Middle East peace process, and ac-

quisition of weapons of mass destruction and the means to deliver them. On May 6, 1995, I issued Executive Order 12959 imposing more comprehensive sanctions to further respond to this threat, and on August 19, 1997, I issued Executive Order 13059 consolidating and clarifying these previous orders. The last notice of continuation was published in the Federal Register on March 6, 1998.

Because the actions and policies of the Government of Iran continue to threaten the national security, foreign policy, and economy of the United States, the national emergency declared on March 15, 1995, must continue in effect beyond March 15, 1999. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Iran. Because the emergency declared by Executive Order 12957 constitutes an emergency separate from that declared on November 14, 1979, by Executive Order 12170, this renewal is distinct from the emergency renewal of November 1998. This notice shall be published in the Federal Register and transmitted to the Congress.

William J. Clinton
The White House, March 10, 1999.

(6) Report to Congress on Developments Concerning the National Emergency Declared in Executive Order 12947, with Respect to Terrorists Who Threaten to Disrupt the Middle East Peace Process [1]

Message from the President of the United States transmitting a 6-month periodic report on the national emergency with respect to terrorists who threaten to disrupt the Middle East peace process that was declared in Executive Order 12947 of January 23, 1995, pursuant to 50 U.S.C. 1703(c)

PRESIDENT'S PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO TERRORISTS WHO THREATEN TO DISRUPT THE MIDDLE EAST PEACE PROCESS

I hereby report to the Congress on developments concerning the national emergency with respect to terrorists who threaten to disrupt the Middle East peace process that was declared in Executive Order 12947 of January 23, 1995. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c).

1. On January 23, 1995, I signed Executive Order 12947, "Prohibiting Transactions with Terrorists Who Threaten To Disrupt the Middle East Peace Process" (the "Order") (60 *Fed. Reg.* 5079, January 25, 1995). The Order blocks all property subject to U.S. jurisdiction in which there is any interest of 12 terrorist organizations that threaten the Middle East peace process as identified in an Annex to the Order. The Order also blocks the property and interests in property subject to U.S. jurisdiction of persons designated by the Secretary of State, in coordination with the Secretary of the Treasury and the Attorney General, who are found (1) to have committed, or to pose a significant risk of committing, acts of violence that have the purpose or effect of disrupting the Middle East peace process, or (2) to assist in, sponsor, or provide financial, material, or technological support for, or services in support of, such acts of violence. In addition, the Order blocks all property and interests in property subject to U.S. jurisdiction in which there is any interest of persons determined by the Secretary of the Treasury, in coordination with the Secretary of State and the Attorney General, to be owned or controlled by, or to act for or on behalf of, any other person designated pursuant to the Order (collectively "Specially Designated Terrorists" or "SDTs".

The Order further prohibits any transaction or dealing by a United States person or within the United States in property or interests in property of SDTs, including the making or receiving of any contribution of funds, goods, or services to or for the benefit of

[1] House Document 106–106, July 30, 1999.

such persons. This prohibition includes donations that are intended to relieve human suffering.

Designations of persons blocked pursuant to the Order are effective upon the date of determination by the Secretary of State or her delegate, or the Director of the Office of Foreign Assets Control ("OFAC") acting under authority delegated by the Secretary of the Treasury. Public notice of blocking is effective upon the date of filing with the Federal Register, or upon prior actual notice.

Because terrorist activities continue to threaten the Middle East peace process and vital interests of the United States in the Middle East, on January 21, 1999, I continued for another year the national emergency declared on January 23, 1995, and the measures that took effect on January 24, 1995, to deal with that emergency. This action was taken in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)).

2. On January 25, 1995, the Department of the Treasury issued a notice listing persons blocked pursuant to Executive Order 12947 who have been designated by the President as terrorist organizations threatening the Middle East peace process or who have been found to be owned or controlled by, or to be acting for or on behalf of, these terrorist organizations (60 *Fed. Reg.* 5084, January 25, 1995). The notice identified 31 entities that act for or on behalf of the 12 Middle East terrorist organizations listed in the Annex to Executive Order 12947, as well as 18 individuals who are leaders or representatives of these groups. In addition, the notice provided 9 name variations or pseudonyms used by the 18 individuals identified. The list identifies blocked persons who have been found to have committed, or to pose a significant risk of committing, acts of violence that have the purpose or effect of disrupting the Middle East peace process or to have assisted in, sponsored, or provided financial, material or technological support for, or services in support of, such acts of violence, or are owned or controlled by, or act for or on behalf of other blocked persons. The Department of the Treasury issued three additional notices adding the names of three individuals, as well as their pseudonyms, to the List of SDTs (60 *Fed. Reg.* 41152, August 11, 1995; 60 *Fed. Reg.* 41152, August 11, 1995; *60 Fed. Reg.* 44932, August 29, 1995; and 60 *Fed. Reg.* 58435, November 27, 1995).

On August 20, 1998, I signed Executive Order 13099 (63 *Fed. Reg.* 45167, August 20, 1998) amending Executive Order 12947 by adding Usama bin Muhammad bin Awad bin Ladin (a.k.a. Usama bin Ladin) and two of his associates, Abu Hafa al-Marsi and Rifai Ahmad Taha Musa, and the Islamic Army to the Annex of Executive Order 12947 as terrorists who threaten to disrupt the Middle East peace process. Executive Order 13099 does not limit or otherwise affect the other provisions of Executive Order 12947.

3. On February 2, 1996, OFAC issued the Terrorism Sanctions Regulations (the "TSRs" or the "Regulations") (61 *Fed. Reg.* 3805, February 2, 1996). The TSRs implement the President's declaration of a national emergency and imposition of sanctions against certain persons whose acts of violence have the purpose or effect of disrupting the Middle East peace process. Pursuant to Executive Order 13099 of August 20, 1998, "Prohibiting Transactions with Terrorists who Threaten to Disrupt the Middle East Peace Proc-

ess," (63 *Fed. Reg.* 45167, 3 C.F.R., 1998 Comp., p. 208) and the Regulations, on June 28, 1999, OFAC amended appendix A to 31 C.F.R. chapter V by adding three individuals and one organization as persons who have been designated in the Executive Order as terrorists who threaten to disrupt the Middle East peace process or STDs (64 *Fed. Reg.* 35575, 31 C.F.R., July 1, 1999).

4. Since the signing of Executive Order 12947 in January 1995 through June 1998, more than $650,000 in assets in which STDs have an interest were blocked. The blocking of these assets, consisting of funds and real property, stopped their conversion or other disposal for the benefit of the STDs having an interest in them. In June 1998, assets totaling $1.2 million, including a large portion of the assets previously blocked, were seized pursuant to civil forfeiture statutes.

Following the issuance of Executive Order 13099, several million dollars in STD-related funds were blocked in aid of investigation. On May 3, 1999, a determination was made to unblock the funds in light of pending lawsuits filed seeking to release the funds, the information then at the government's disposal, and following consultations with the Department of Justice. Federal agencies will continue to work closely to identify and block assets in which STDs have an interest and will vigorously implement Executive Orders 12947 and 13099 against Usama bin Ladin and other Middle East terrorists.

5. Since January 25, 1995, OFAC has issued nine licenses pursuant to the Regulations. These licenses authorize payment of legal expenses of individuals and the disbursement of funds for normal expenditures for the maintenance of family members, the employment, receipt of salary and payment of educational expenses for an STD, secure storage of tangible assets of STDs, and certain administrative transactions of individuals designated pursuant to Executive Order 12947.

6. The expenses incurred by the Federal Government in the 6-month period from January 23 through July 22, 1999, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the national emergency with respect to organizations that disrupt the Middle East peace process, are estimated at approximately $4.2 million. This amount reflects additional personnel costs not previously identified as being directly associated with the administration of this program.

7. Executive Orders 12947 and 13099 provide this Administration with a tool for combating fund raising in this country on behalf of organizations that use terror to undermine the Middle East peace process. The orders makes it harder for such groups to finance these criminal activities by cutting off their access to sources of support in the United States and to U.S. financial facilities. It is also intended to reach charitable contributions to designated organizations and individuals to preclude diversion of such donations to terrorist activities.

The Executive Orders demonstrate the United States determination to confront and combat those who would seek to destroy the Middle East peace process, and our commitment to the global fight against terrorism. I shall continue to exercise the powers at my disposal to apply economic sanctions against extremists seeking to de-

stroy the hopes of peaceful coexistence between Arabs and Israelis as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).

(7) Report to Congress on an Amendment to Executive Order 12947 Responding to the Worldwide Threat Posed by Foreign Terrorists Who Threaten to Disrupt the Middle East Peace Process

THE WHITE HOUSE

OFFICE OF THE PRESS SECRETARY

TEXT OF A LETTER FROM THE PRESIDENT TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE

August 20, 1998

Dear Mr. Speaker: (Dear Mr. President:)

On January 23, 1995, in light of the threat posed by grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process, using my authority under, inter alia, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), I declared a national emergency and issued Executive Order 12947. Because such terrorist activities continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, I have renewed the national emergency declared in Executive Order 12947 annually, most recently on January 21, 1998. Pursuant to section 204(b) of the International Emergency Economic Powers Act (50 U.S.C. 1703(b)) and section 201 of the National Emergencies Act (50 U.S.C. 1631), I hereby report to the Congress that I have exercised my statutory authority to issue an Executive Order that amends Executive Order 12947 in order more effectively to respond to the worldwide threat posed by foreign terrorists.

The amendment to the Annex of Executive Order 12947 adds Usama bin Muhammad bin Awad bin Ladin (a.k.a. Usama bin Ladin), Islamic Army, Abu Hafs al-Masri, and Rifa'i Ahmad Taha Musa to the list of terrorists that are subject to the prohibitions contained in the Executive Order. These prohibitions include the blocking of all property and interests in the property of the terrorists listed in the Annex, the prohibition of any transaction or dealing by United States persons or within the United States in property or interests in property of the persons designated, and the prohibition of any transaction by any United States persons or within the United States that evades or avoids, or has the purpose of evading or avoiding, any of the prohibitions set forth in the Executive Order.

Usama bin Ladin and his organizations and associates have repeatedly called upon their supporters to perform acts of violence. Bin Ladin has declared that killing Americans and their allies "is an individual duty for every Muslim . . . in order to liberate the

Al-Aqsa Mosque and the Holy Mosque." These threats are clearly intended to violently disrupt the Middle East peace process.

This Executive Order does not limit or otherwise affect the other provisions of Executive Order 12947.

I have authorized these actions in view of the danger posed to the national security, foreign policy, and economy of the United States by the activities of Usama bin Muhammad bin Awad bin Ladin (a.k.a. Usama bin Ladin), Islamic Army, Abu Hafs al-Masri, and Rifa'i Ahmad Taha Musa that disrupt the Middle East peace process. I am enclosing a copy of the Executive Order that I have issued exercising my emergency authorities.

Sincerely,

William J. Clinton

EXECUTIVE ORDER 13099

PROHIBITING TRANSACTIONS WITH TERRORISTS WHO THREATEN TO DISRUPT THE MIDDLE EAST PEACE PROCESS

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3, United States Code,

I, WILLIAM J. CLINTON, President of the United States of America, in order to take additional steps with respect to grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process and the national emergency described and declared in Executive Order 12947 of January 23, 1995, hereby order:

Section 1. The title of the Annex to Executive Order 12947 of January 23, 1995, is revised to read "TERRORISTS WHO THREATEN TO DISRUPT THE MIDDLE EAST PEACE PROCESS."

Sec. 2. The Annex to Executive Order 12947 of January 23, 1995, is amended by adding thereto the following persons in appropriate alphabetical order:

Usama bin Muhammad bin Awad bin Ladin (a.k.a. Usama bin Ladin) Islamic Army (a.k.a. Al-Qaida, Islamic Salvation Foundation, The Islamic Army for the Liberation of the Holy Places, The World Islamic Front for Jihad Against Jews and Crusaders, and The Group for the Preservation of the Holy Sites)

Abu Hafs al-Masri

Rifa'i Ahmad Taha Musa

Sec. 3. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 4. (a) This order is effective at 12:01 a.m., eastern daylight time on August 21, 1998.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

William J. Clinton

The White House, August 20, 1998.

(8) Continuation of the National Emergency Declared in Executive Order 12947, with Respect to Terrorists Who Threaten to Disrupt the Middle East Peace Process

THE WHITE HOUSE

OFFICE OF THE PRESS SECRETARY

TEXT OF A LETTER FROM THE PRESIDENT TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE

January 20, 1999

Dear Mr. Speaker: (Dear Mr. President:)

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the emergency declared with respect to grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process is to continue in effect beyond January 23, 1999, to the Federal Register for publication. The most recent notice continuing this emergency was published in the Federal Register on January 22, 1998.

The crisis with respect to the grave acts of violence committed by foreign terrorists that threaten to disrupt the Middle East peace process that led to the declaration on January 23, 1995, of a national emergency has not been resolved. Terrorist groups continue to engage in activities with the purpose or effect of threatening the Middle East peace process, and which are hostile to United States interests in the region.

Such actions threaten vital interests of the national security, foreign policy, and economy of the United States. On August 20, 1998, I identified four additional persons, including Usama bin Ladin, that threaten to disrupt the Middle East peace process. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to deny any financial support from the United States for foreign terrorists that threaten to disrupt the Middle East peace process.

Sincerely,

William J. Clinton

NOTICE

CONTINUATION OF EMERGENCY REGARDING TERRORISTS WHO THREATEN TO DISRUPT THE MIDDLE EAST PEACE PROCESS

On January 23, 1995, by Executive Order 12947, I declared a national emergency to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process. By Executive Order 12947 of January 23, 1995, I blocked the assets in the United States, or in the control of United States persons, of foreign terrorists who threaten to disrupt the Middle East peace process. I also prohibited transactions or dealings by United States persons in such property. On August 20, 1998, by Executive Order 13099, I identified four additional persons, including Usama bin Ladin, that threaten to disrupt the Middle East peace process. I have annually transmitted notices of the continuation of this national emergency to the Congress and the Federal Register. Last year's notice of continuation was published in the Federal Register on January 22, 1998.

Because terrorist activities continue to threaten the Middle East peace process and vital interests of the United States in the Middle East, the national emergency declared on January 23, 1995, and the measures that took effect on January 24, 1995, to deal with that emergency must continue in effect beyond January 23, 1999. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to foreign terrorists who threaten to disrupt the Middle East peace process.

This notice shall be published in the Federal Register and transmitted to the Congress.

William J. Clinton
The White House, January 20, 1999.

(9) Report and Notice to Congress on the Continuation of the National Emergency with Respect to Weapons of Mass Destruction [1]

Message from the President of the United States transmitting a 6-month report on the national emergency declared by Executive Order 12938 of November 14, 1994, in response to the threat posed by the proliferation of nuclear, biological, and chemical weapons and of the means of delivering such weapons, pursuant to 50 U.S.C. 1703(c)

REPORT TO THE CONGRESS ON THE NATIONAL EMERGENCY CONCERNING WEAPONS OF MASS DESTRUCTION

On November 14, 1994, in light of the dangers of the proliferation of nuclear, biological and chemical weapons ("weapons of mass destruction"—WMD) and of the means of delivering such weapons, I issued Executive Order 12938, and declared a national emergency under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.). Under section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), the national emergency terminates on the anniversary date of its declaration, unless I publish in the Federal Register and transmit to the Congress a notice of its continuation. Because the proliferation of weapons of mass destruction and their means of delivery continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, on November 12, 1998, I extended the national emergency declared in Executive Order 12938.

The following report is made pursuant to section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), regarding activities taken and money spent pursuant to the emergency declaration. Additional information on nuclear, missile, and/or chemical and biological weapons (CBW) nonproliferation efforts is contained in the most recent annual Report on the Proliferation of Missiles and Essential Components of Nuclear, Biological and Chemical Weapons, provided to the Congress pursuant to section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190), also known as the "Nonproliferation Report," and the most recent annual report provided to the Congress pursuant to section 308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Public Law 102–182), also known as the "CBW Report."

On July 28, 1998, in E.O. 13094, I amended section 4 of E.O. 12938 so that the United States Government could more effectively respond to the worldwide threat of weapons of mass destruction proliferation activities. The amendment to section 4 strengthens Executive Order 12938 in several significant ways. The amendment

[1] House Document 106–93, July 14, 1999.

broadens the type of proliferation activity that subjects entities to potential penalties under the Executive Order. The original Executive Order provided for penalties for contributions to the efforts of any foreign country, project or entity to use, acquire, design, produce, or stockpile chemical or biological weapons; the amended Executive Order also covers contributions to foreign programs for nuclear weapons and for missiles capable of delivering weapons of mass destruction. Moreover, the amendment expands the original Executive Order to include attempts to contribute to foreign proliferation activities, as well as actual contributions, and broadens the range of potential penalties to expressly include the prohibition of United States Government assistance to foreign persons, and the prohibition of imports into the United States and U.S. Government procurement.

NUCLEAR WEAPONS

In May 1998, India and Pakistan each conducted a series of nuclear tests. World reaction included nearly universal condemnation across a broad range of international fora and multilateral support for a broad range of sanctions, including new restrictions on lending by international financial institutions unrelated to basic human needs and aid from the G–8 and other countries.

Since the mandatory imposition of U.S. sanctions, we have worked unilaterally, with other P–5 and G–8 members, and through the U.N., to dissuade India and Pakistan from taking further steps toward developing nuclear weapons. We have urged them to join multilateral arms control efforts, to prevent a regional arms race and build confidence by practicing restraint, and to resume efforts to resolve their differences through dialogue. The P–5, G–8, and U.N. Security Council have called on India and Pakistan to take a broad range of concrete actions. The United States has focused most intensely on several objectives that can be met over the short and medium term: an end to nuclear testing and prompt, unconditional adherence to the Comprehensive Nuclear Test Ban Treaty (CTBT); a moratorium on production of fissile material for nuclear weapons and other explosive devices, and engagement in productive negotiations on a fissile material cut-off treaty (FMCT); restraint in deployment of nuclear-capable missiles and aircraft; and adoption of controls meeting international standards on exports of sensitive materials and technology.

Against this backdrop of international pressure on India and Pakistan, high-level U.S. dialogues with Indian and Pakistani officials have yielded some progress. Both governments, having already declared testing moratoria, indicated they are prepared to adhere to the CTBT by September 1999 under certain conditions. Both India and Pakistan withdrew their opposition to negotiations on an FMCT in Geneva at the end of the 1998 Conference on Disarmament session. They have also pledged, in the last two rounds of discussions, to institute strict control of sensitive exports that meet internationally accepted standards. In addition, they have resumed their bilateral dialogue on outstanding disputes, including Kashmir, at the Foreign Secretary level. We will continue discussions with both governments at the senior and expert levels, and

our diplomatic efforts in concert with P–5, G–8, and in international fora.

The Democratic People's Republic of Korea (DPRK or North Korea) continues to maintain a freeze on its nuclear facilities consistent with the 1994 U.S.-DPRK Agreed Framework, which calls for the immediate freezing and eventual dismantling of the DPRK's graphite-moderated reactors and reprocessing plant at Yongbyon and Taechon. The United States has raised its concerns with the DPRK about a suspect underground site under construction, possibly intended to support nuclear activities contrary to the Agreed Framework. In March 1999, the United States reached agreement with the DPRK for visits by a team of U.S. experts to the facility.

The framework requires the DPRK to come into full compliance with its NPT and IAEA obligations as a part of a process that also included the supply of two light water reactors to North Korea. U.S. experts remain on-site in North Korea working to complete clean-up operations after largely finishing the canning of spent fuel from the North's 5-megawatt nuclear reactor.

So far, 152 countries have signed and 34 have ratified the CTBT. During 1998, CTBT signatories conducted numerous meetings of the Preparatory Commission (PrepCom) in Vienna, seeking to promote rapid completion of the International Monitoring System (IMS) established by the Treaty.

On September 22, 1997, I transmitted the CTBT to the Senate, requesting prompt advice and consent to ratification. The CTBT will serve several U.S. national security interests by prohibiting all nuclear explosions. It will constrain the development and qualitative improvement of nuclear weapons; end the development of advanced new types; contribute to the prevention of nuclear proliferation and the process of nuclear disarmament; and strengthen international peace and security. The CTBT marks a historic milestone in our drive to reduce the nuclear threat and to build a safer world.

With 35 member states, the Nuclear Suppliers Group (NSG) is a widely accepted, mature, and effective export-control arrangement. China is the only major nuclear supplier which is not a member of the NSG, primarily because it has not accepted the NSG policy of requiring full-scope safeguards as a condition for supply of nuclear trigger list items to non-nuclear weapon states. However, China has taken major steps toward improving its export control system by adopting language identical to the NSG trigger list, becoming a full-member of the Zangger Committee, and by promulgating in 1998 nuclear-related dual-use export control regulations.

The NSG is considering requests for membership from Belarus, Cyprus, Kazakhstan and Turkey; of these four potential candidate countries, only Turkey has all the necessary steps for acceptance as a member. The NSG continues to consider whether adherence without membership, rather than membership, is more appropriate for countries which are not suppliers but transit states for nuclear transactions. The Chairman, in coordination with other members, will continue contacts with all candidate countries. The ultimate goal of the NSG continues to be to obtain agreement of all supplier and transit states, including non-NSG members, to control nuclear and nuclear-related exports in accordance with the NSF Guideline

During the last six months, we reviewed intelligence and other reports of trade in nuclear-related material and technology that might be relevant to nuclear-related sanctions provisions in the Iran-Iraq Arms Non-Proliferation Act of 1992, as amended and in the Nuclear Proliferation Prevention Act of 1994. No statutory sanctions determinations were reached during this reporting period. The administrative measure imposed against three Russian entities for their nuclear-and missile-related cooperation with Iran are discussed in the Missiles section below.

CHEMICAL AND BIOLOGICAL WEAPONS

The export control regulations issued under the Enhanced Proliferation Control Initiative (EPCI) remain fully in force and continue to be applied by the Department of Commerce in order to control the export of items with potential use in chemical or biological weapons or unmanned delivery systems for weapons of mass destruction.

Chemical weapons (CW) continue to pose a very serious threat to our security and that of our allies. On April 29, 1997, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (the Chemical Weapons Convention or CWC) entered into force with 87 of the CWC's 165 signatories as original States Parties. The United States was among their number, having deposited its instrument of ratification on April 25. Russia ratified the CWC on November 5, 1997, and became a State Party on December 5, 1997. To date, 121 countries (including China, Iran, India, Pakistan, and Ukraine) have become States Parties.

The implementing body for the CWC—the Organization for the Prohibition of Chemical Weapons (OPCW)—was established at entry into force (EIF) of the Convention on April 29, 1997. The OPCW, located in The Hague, has primary responsibility (along with States Parties) for implementing the CWC. It consists of the Conference of the States Parties, the Executive Council (EC), and the Technical Secretariat (TS). The TS carries out the verification provisions of the CWC, and presently has a staff of approximately 500, including about 200 inspectors trained and equipped to inspect military and industrial facilities throughout the world. To date, the OPCW has conducted nearly 300 inspections in some 26 countries. To date, nearly 100 inspections have been conducted at military facilities in the United States. The OPCW maintains a permanent inspector presence at operational U.S. CW destruction facilities in Utah, Nevada, and Johnston Island.

The United States is determined to seek full implementation of the concrete measures in the CWC designed to raise the costs and risks for any state or terrorist attempting to engage in chemical weapons-related activities. The CWC's declaration requirements improve our knowledge of possible chemical weapons activities. Its inspection provisions provide for access to declared and undeclared facilities and locations, thus making clandestine chemical weapons production and stockpiling more difficult, more risky, and more expensive.

The Chemical Weapons Convention Implementation Act of 1998 was enacted into U.S. law in October 1998, as part of the Omnibus

Consolidated and Emergency Supplemental Appropriation Act, 1999 (Public Law 105–277). Accordingly, the Administration is working to publish the appropriate executive order and regulations regarding industrial declarations and inspections of industrial facilities. Submission of these declarations to the OPCW will begin to bring the U.S. into full compliance with the CWC. U.S. noncompliance to date has, among other things, undermined U.S. leadership in the organization as well as our ability to encourage other States Parties to make complete, accurate, and timely declarations.

Countries that refuse to join the CWC will be politically isolated and prohibited under the CWC from trading with States Parties in certain key chemicals. The relevant treaty provision is specifically designed to penalize countries that refuse to join the rest of the world in eliminating the threat of chemical weapons.

The United States also continues to play a leading role in the international effort to reduce the threat from biological weapons (BW). We are an active participant in the Ad Hoc Group (AHG) striving to complete a legally binding protocol to strengthen and enhance compliance with the 1972 Convention on the Prohibition of the Development, Production and Stock-piling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (the Biological Weapons Convention or BWC). This Ad Hoc Group was mandated by the September 1994 BWC Special Conference. The Fourth BWC Review Conference, held in November/December 1996, urged the AHG to complete the protocol as soon as possible but not later than the next Review Conference to be held in 2001. Work is progressing on a draft rolling text through insertion of national views and clarification of existing text. Five AHG negotiating sessions are scheduled for 1999. The United States is working toward completion of the substance of a strong Protocol by the end of 1999.

On January 19, 1998,[2] during the State of the Union Address, I announced that the United States would take a leading role in the effort to erect stronger international barriers against the proliferation and use of BW by strengthening the BWC with a new international system to detect and deter cheating. The United States is working closely with U.S. industry representatives to obtain technical input relevant to the development of U.S. negotiating positions and then to reach international agreement on data declarations, non-challenge visits, and challenge investigations.

The United States continued to be a leading participant in the 30-member Australia Group (AG) CBW nonproliferation regime. The United States attended the most recent annual AG Plenary Session from October 9–15, 1998, during which the Group reaffirmed the members' continued collective belief in the Group's viability, importance and compatibility with the CWC and BWC. It was further agreed that full adherence to the CWC and BWC will be the only way to achieve a permanent global ban on chemical and biological weapons, and that all states adhering to these Conventions must take steps to ensure that their national activities support these goals. At the 1998 Plenary, the Group continued to focus on strengthening AG export controls and share information to ad-

[2] 1998 State of the Union Address delivered on January 27, 1998.

dress the threat of CBW terrorism. AG participants shared information on legal and regulatory efforts each member has taken to counter this threat. The AG also reaffirmed its commitment to continue its active outreach program of briefings for non-AG countries, and to promote regional consultations on export controls and nonproliferation to further awareness and understanding of national policies in these areas.

During the last six months, we continued to examine closely intelligence and other reports of trade in CBW-related material and technology that might be relevant to sanctions provisions under the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991. No new sanctions determinations were reached during this reporting period. The United States also continues to cooperate with its AG partners and other countries in stopping shipments of proliferation concern.

MISSILES FOR DELIVERY OF WEAPONS OF MASS DESTRUCTION

The United States carefully controlled exports that could contribute to unmanned delivery systems for weapons of mass destruction and closely monitored activities of potential missile proliferation concern. We also continued to implement U.S. missile sanctions law. In March 1999, we imposed missile sanctions against three Middle Eastern entities for transfers involving Category II MTCR Annex items. Category II missile sanctions imposed against two North Korean entities in August 1977 also remain in effect, as do Category I missile sanctions imposed in April 1998 against North Korean and Pakistani entities for the transfer from North Korea to Pakistan of equipment and technology related to the Ghauri missile.

During this reporting period, MTCR Partners continued to share information about proliferation problems with each other and with other potential supplier, consumer, and transshipment states. Partners also emphasized the need for implementing effective export control systems. This cooperation has resulted in the interdiction of missile-related materials intended for use in missile programs of concern.

The United States worked unilaterally and in coordination with its MTCR Partners to combat missile proliferation and to encourage non-members to export responsibly and to adhere to the MTCR Guidelines. Since my last report, we have continued our missile nonproliferation dialogues with China, India, the republic of Korea (ROK), North Korea (DPRK), and Pakistan. In the course of normal diplomatic relations, we also have pursued such discussions with other countries in Central Europe and the Middle East.

In March 1999, the United States and the DPRK held a fourth round of missile talks aimed at obtaining the DPRK commitments to restrain its missile practices. The talks were detailed and substantive, and covered the full range of missile proliferation issues. The United States expressed serious concerns about North Korea's missile-related exports and its indigenous missile activities, including missile production, deployment, and flight testing. We continued to press for tight constraints on these activities, and also made clear that further launches of long-range missiles or further exports of such missile or their related technology would have very nega-

tive consequences for efforts to improve U.S.-North Korean relations.

In response to reports of continuing Iranian efforts to acquire sensitive items from Russian entities for use in Iran's missile development program, the United States continued its high-level dialogue with Russia. This dialogue is developing ways the United States and Russia can work together to cut off the flow of sensitive goods to Iran. Despite the Russian government's nonproliferation and export control efforts, Russian entities continued to cooperate with Iran's ballistics missile program during this reporting period, and to engage in nuclear cooperation with Iran beyond the Bushehr reactor project. There was some improvement in Russia's efforts to crack down on such activities during 1998. However, while Russia continues to try to implement some export control measures, the flow to Iran continues. We continue to press Russia to improve its record.

In January 1999, we imposed administrative measures against three Russian entities for their nuclear- and missile-related cooperation with Iran. Specifically, the United States has banned exports to and imports from these entities. We also have banned U.S. Government procurement from and assistance to them. (Last July, we took the same action against seven Russian entities involved with Iran's ballistic missile program.) In addition, we are continuing our longstanding, broad, and intensive efforts with the Russian government aimed at stopping proliferation. As part of this approach, the United States will be chairing in June the first meeting of the joint U.S.-Russia Missile Sub-group of our bilateral Export Control Working Group. This Sub-group will focus, among other things, on improving risk assessment in Russia's missile-related licensing decisions.

THREAT REDUCTION

The proliferation of WMD and delivery system expertise also poses a significant threat to national and international security. A major concern is that the potential for proliferation is increased due to the economic crisis in Russia and other NIS. The Administration gives high priority to controlling the human dimension of proliferation through programs that support the transition of former Soviet weapons scientists to civilian research and technology development activities. I have proposed an additional $4.5 billion for programs embodied in the Expanded Threat Reduction Initiative (ETRI) that would support activities in four areas: nuclear security; non-nuclear WMD; science and technology nonproliferation; and military relocation, stabilization and other security cooperation programs. Congressional support for this initiative would enable the engagement of a broad range of programs under the Departments of State, Energy and Defense.

EXPENSES

Pursuant to section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I report that there were no expenses directly attributable to the exercise of Authorities conferred by the declara-

tion of the national emergency in Executive Order 12938 during the period from November 1, 1998, through May 14, 1999.

NOTICE

CONTINUATION OF EMERGENCY REGARDING WEAPONS OF MASS DESTRUCTION

On November 14, 1994, by Executive Order 12938, I declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the proliferation of nuclear, biological, and chemical weapons ("weapons of mass destruction") and the means of delivering such weapons. Because the proliferation of weapons of mass destruction and the means of delivering them continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, the national emergency first declared on November 14, 1994, and extended on November 14, 1995, November 12, 1996, and November 13, 1997, must continue in effect beyond November 14, 1998. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency declared in Executive Order 12938.

This notice shall be published in the Federal Register and transmitted to the Congress.

William J. Clinton
The White House, November 12, 1998.

(10) Report to Congress on Developments Concerning the National Emergency with Respect to Iraq

THE WHITE HOUSE

OFFICE OF THE PRESS SECRETARY

TEXT OF A LETTER FROM THE PRESIDENT TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE

August 13, 1998

Dear Mr. Speaker: (Dear Mr. President:)

I hereby report to the Congress on the developments since my last report of February 3, 1998, concerning the national emergency with respect to Iraq that was declared in Executive Order 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c).

Executive Order 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq) then or thereafter located in the United States or within the possession or control of a United States person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. United States persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution (UNSCR) 661 of August 6, 1990.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order 12722 and matters relating to Executive Orders 12724 and 12817 (the "Executive Orders"). The report covers events from February 2 through August 1, 1998.

1. In April 1995, the U.N. Security Council adopted UNSCR 986 authorizing Iraq to export up to $1 billion in petroleum and petroleum products every 90 days for a total of 180 days under U.N. supervision in order to finance the purchase of food, medicine, and other humanitarian supplies. UNSCR 986 includes arrangements to ensure equitable distribution of humanitarian goods purchased with UNSCR 986 oil revenues to all the people of Iraq. The resolu-

tion also provides for the payment of compensation to victims of Iraqi aggression and for the funding of other U.N. activities with respect to Iraq. On May 20, 1996, a memorandum of understanding was concluded between the Secretariat of the United Nations and the Government of Iraq agreeing on terms for implementing UNSCR 986. On August 8, 1996, the UNSC committee established pursuant to UNSCR 661 ("the 661 Committee") adopted procedures to be employed in implementation of UNSCR 986. On December 9, 1996, the President of the Security Council received the report prepared by the Secretary General as requested by paragraph 13 of UNSCR 986, making UNSCR 986 effective as of 12:01 a.m. December 10, 1996.

On June 4, 1997, the U.N. Security Council adopted UNSCR 1111, renewing for another 180 days the authorization for Iraqi petroleum sales and purchases of humanitarian aid contained in UNSCR 986 of April 14, 1995. The Resolution became effective on June 8, 1997. On September 12, 1997, the Security Council, noting Iraq's decision not to export petroleum and petroleum products pursuant to UNSCR 1111 during the period June 8 to August 13, 1997, and deeply concerned about the resulting humanitarian consequences for the Iraqi people, adopted UNSCR 1129. This resolution replaced the two 90-day quotas with one 120-day quota and one 60-day quota in order to enable Iraq to export its full $2 billion quota of oil within the original 180 days of UNSCR 1111. On December 4, 1997, the U.N. Security Council adopted UNSCR 1143, renewing for another 180 days, beginning December 5, 1997, the authorization for Iraqi petroleum sales and humanitarian aid purchases contained in UNSCR 986.

On February 20, 1998, the U.N. Security Council adopted UNSCR 1153, authorizing the sale of Iraqi petroleum and petroleum products and the purchase of humanitarian aid for a 180-day period beginning with the date of notification by the President of the Security Council to the members thereof of receipt of the report requested in UNSCR 1153. UNSCR 1153 authorized the sale of $5.256 billion worth of Iraqi petroleum and petroleum products. On March 25, 1998, the Security Council, noting the shortfall in revenue from Iraq's sale of petroleum and petroleum products during the first 90-day period of implementation of UNSCR 1143, due to the delayed resumption in sales and a serious decrease in prices, and concerned about the resulting humanitarian consequences for the Iraqi people, adopted UNSCR 1158. This Resolution reaffirmed the authorization for Iraqi petroleum sales and purchases of humanitarian aid contained in UNSCR 1143 for the remainder of the second 90-day period and set the authorized value during that time frame to $1.4 billion pending implementation of UNSCR 1153. The 180-day period authorized in UNSCR 1153 began on May 30, 1998. On June 19, 1998, the Security Council adopted UNSCR 1175, authorizing the expenditure of up to $300 million on Iraqi oil infrastructure repairs in order to help Iraq reach the higher export ceiling permitted under UNSCR 1153. UNSCR 1175 also reaffirmed the Security Council's endorsement of the Secretary General's recommendation that the "oil-for-food" distribution plan be ongoing and project-based. During the period covered by this report, imports into the United States under the program totaled about 14.2

million barrels, bringing total imports since December 10, 1996, to approximately 51.5 million barrels.

2. There have been no amendments to the Iraqi Sanctions Regulations, 31 C.F.R. Part 575 (the "ISR" or the "Regulations") administered by the Office of Foreign Assets Control (OFAC) of the Department of the Treasury during the reporting period.

As previously reported, the Regulations were amended on December 10, 1996, to provide a statement of licensing policy regarding specific licensing of United States persons seeking to purchase Iraqi-origin petroleum and petroleum products from Iraq (61 Fed. Reg. 65312, December 11, 1996). Statements of licensing policy were also provided regarding sales of essential parts and equipment for the Kirkuk-Yumurtalik pipeline system, and sales of humanitarian goods to Iraq, pursuant to United Nations approval. A general license was also added to authorize dealings in Iraqi-origin petroleum and petroleum products that have been exported from Iraq with United Nations and United States Government approval.

All executory contracts must contain terms requiring that all proceeds of oil purchases from the Government of Iraq, including the State Oil Marketing Organization, must be placed in the U.N. escrow account at Banque Nationale de Paris, New York (the "986 escrow account"), and all Iraqi payments for authorized sales of pipeline parts and equipment, humanitarian goods, and incidental transaction costs borne by Iraq will, upon approval by the 661 Committee and satisfaction of other conditions established by the United Nations, be paid or payable out of the 986 escrow account.

3. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. Several cases from prior reporting periods are continuing, and recent additional allegations have been referred by OFAC to the U.S. Customs Service for investigation.

Investigation also continues into the roles played by various individuals and firms outside Iraq in the Iraqi government procurement network. These investigations may lead to additions to OFAC's listing of individuals and organizations determined to be Specially Designated Nationals (SDNs) of the Government of Iraq.

Since my last report, OFAC has collected two civil monetary penalties totaling $9,000 from one company and one individual for violations of IEEPA and ISR prohibitions against transactions with Iraq.

4. The Office of Foreign Assets Control has issued hundreds of licensing determinations regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Specific licenses have been issued for transactions such as the filing of legal actions against Iraqi governmental entities, legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, and food intended for humanitarian relief purposes, sales of humanitarian supplies to Iraq under UNSCRs 986, 1111, 1143, and 1153, diplomatic transactions, the execution of powers of attorney relating to the administration of personal assets and decedents' estates in Iraq, and the protection of preexistent intellectual property rights in Iraq. Since my last report, 75 specific licenses have been issued, most with respect to sales of humanitarian goods.

Since December 10, 1996, OFAC has issued specific licenses authorizing commercial sales of humanitarian goods funded by Iraqi oil sales pursuant to UNSCRs 986, 1111, 1143, and 1153 valued at more than $324 million. Of that amount, approximately $298 million represents sales of basic foodstuffs, $14 million for medicines and medical supplies, $9.2 million for water testing and treatment equipment, and nearly $3 million to fund a variety of United Nations activities in Iraq. International humanitarian relief in Iraq is coordinated under the direction of the United Nations Office of the Humanitarian Coordinator of Iraq. Assisting U.N. agencies include the World Food Program, the U.N. Population Fund, the U.N. Food and Agriculture Organization, the World Health Organization, and UNICEF. As of June 29, 1998, OFAC had authorized sales valued at more than $85 million worth of humanitarian goods during the current reporting period.

5. The expenses incurred by the Federal Government in the 6-month period from February 2 through August 1, 1998, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq, are reported to be about $1.1 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near Eastern Affairs, the Bureau of International Organization Affairs, the Bureau of Political-Military Affairs, the Bureau of Intelligence and Research, the U.S. Mission to the United Nations, and the Office of the Legal Adviser), and the Department of Transportation (particularly the U.S. Coast Guard).

6. The United States imposed economic sanctions on Iraq in response to Iraq's illegal invasion and occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with relevant United Nations Security Council resolutions. Iraqi compliance with these resolutions is necessary before the United States will consider lifting economic sanctions. Security Council resolutions on Iraq call for the elimination of Iraqi weapons of mass destruction, Iraqi recognition of Kuwait and the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third-country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction capabilities, the return of Kuwaiti assets stolen during Iraq's illegal occupation of Kuwait, renunciation of terrorism, an end to internal Iraqi repression of its own civilian population, and the facilitation of access by international relief organizations to all those in need in all parts of Iraq. Eight years after the invasion, a pattern of defiance persists: a refusal to account for missing Kuwaiti detainees; failure to return Kuwaiti property worth millions of dollars, including military equipment that was used by Iraq in its movement of troops to the Kuwaiti border in October 1994; sponsorship of assassinations in Lebanon and in northern Iraq; incomplete declarations

to weapons inspectors and refusal to provide immediate, unconditional, and unrestricted access to sites by these inspectors; and ongoing widespread human rights violations. As a result, the U.N. sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Baghdad government continues to violate basic human rights of its own citizens through systematic repression of all forms of political expression, oppression of minorities, and denial of humanitarian assistance. The Government of Iraq has repeatedly said it will not comply with UNSCR 688 of April 5, 1991. The Iraqi military routinely harasses residents of the north, and has attempted to "Arabize" the Kurdish, Turkomen, and Assyrian areas in the north. Iraq has not relented in its artillery attacks against civilian population centers in the south, or in its burning and draining operations in the southern marshes, which have forced thousands to flee to neighboring states.

The policies and actions of the Saddam Hussein regime continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. The U.N. resolutions affirm that the Security Council be assured of Iraq's peaceful inten-ions in judging its compliance with sanctions. Because of Iraq's failure to comply fully with these resolutions, the United States will continue to apply economic sanctions to deter it from threatening peace and stability in the region.

Sincerely,

William J. Clinton

(11) Continuation of the National Emergency with Respect to Iraq

THE WHITE HOUSE

OFFICE OF THE PRESS SECRETARY

July 21, 1999

To The Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision I have sent the enclosed notice, stating that the Iraqi emergency is to continue in effect beyond August 2, 1999, to the Federal Register for publication.

The crisis between the United States and Iraq that led to the declaration on August 2, 1990, of a national emergency has not been resolved. The Government of Iraq continues to engage in activities inimical to stability in the Middle East and hostile to United States interests in the region. Such Iraqi actions pose a continuing unusual and extraordinary threat to the national security and vital foreign policy interests of the United States. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure on the Government of Iraq.

William J. Clinton

The White House, July 20, 1999.

NOTICE

CONTINUATION OF IRAQI EMERGENCY

On August 2, 1990, by Executive Order 12722, President Bush declared a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of the Government of Iraq. By Executive Orders 12722 of August 2, 1990, and 12724 of August 9, 1990, the President imposed trade sanctions on Iraq and blocked Iraqi government assets. Because the Government of Iraq has continued its activities hostile to United States interests in the Middle East, the national emergency declared on August 2, 1990, and the measures adopted on August 2 and August 9, 1990, to deal with that emergency must continue in effect beyond August 2, 1999. Therefore, in accordance with section 202(d)

of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Iraq.

This notice shall be published in the Federal Register and transmitted to the Congress. William J. Clinton The White House, July 20, 1999.

William J. Clinton
The White House, July 20, 1999.

(12) Report to Congress on Developments Concerning the National Emergency with Respect to Libya

THE WHITE HOUSE

OFFICE OF THE PRESS SECRETARY

July 19, 1999

To The Congress of the United States:

I hereby report to the Congress on the developments since my last report of December 30, 1998, concerning the national emergency with respect to Libya that was declared in Executive Order 12543 of January 7, 1986. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c); section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c); and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa–9(c).

1. On December 30, 1998, I renewed for another year the national emergency with respect to Libya pursuant to IEEPA. This renewal extended the current comprehensive financial and trade embargo against Libya in effect since 1986. Under these sanctions, virtually all trade with Libya is prohibited, and all assets owned or controlled by the Government of Libya in the United States or in the possession or control of U.S. persons are blocked.

2. On April 28, 1999, I announced that the United States will exempt commercial sales of agricultural commodities and products, medicine, and medical equipment from future unilateral sanctions regimes. In addition, my Administration will extend this policy to existing sanctions programs by modifying licensing policies for currently embargoed countries to permit case-by-case review of specific proposals for commercial sales of these items. Certain restrictions apply.

The Office of Foreign Assets Control (OFAC) of the Department of the Treasury is currently drafting amendments to the Libyan Sanctions Regulations, 31 C.F.R. Part 550 (the Regulations), to implement this initiative. The amended Regulations will provide for the licensing of sales of agricultural commodities and products, medicine, and medical supplies to nongovernmental entities in Libya or to government procurement agencies and parastatals not affiliated with the coercive organs of that country. The amended Regulations will also provide for the licensing of all transactions necessary and incident to licensed sales transactions, such as insurance and shipping arrangements. Financing for the licensed sales transactions will be permitted in the manner described in the amended Regulations.

3. During the reporting period, OFAC reviewed numerous applications for licenses to authorize transactions under the Regula-

tions. Consistent with OFAC's ongoing scrutiny of banking transactions, the largest category of license approvals (20) involved types of financial transactions that are consistent with U.S. policy. Most of these licenses authorized personal remittances not involving Libya between persons who are not blocked parties to flow through Libyan banks located outside Libya. Three licenses were issued authorizing certain travel-related transactions. One license was issued to a U.S. firm to allow it to protect its intellectual property rights in Libya; another authorized receipt of payment for legal services; and a third authorized payments for telecommunications services. A total of 26 licenses were issued during the reporting period.

4. During the current 6-month period, OFAC continued to emphasize to the international banking community in the United States the importance of identifying and blocking payments made by or on behalf of Libya. The office worked closely with the banks to assure the effectiveness of interdiction software systems used to identify such payments. During the reporting period, 87 transactions potentially involving Libya, totaling nearly $3.4 million, were interdicted.

5. Since my last report, OFAC has collected 7 civil monetary penalties totaling $38,000 from 2 U.S. financial institutions, 3 companies, and 2 individuals for violations of the U.S. sanctions against Libya. The violations involved export transactions relating to Libya and dealings in Government of Libya property or property in which the Government of Libya had an interest.

On April 23, 1999, a foreign national permanent resident in the United States was sentenced by the Federal District court for the Middle District of Florida to 2 years in prison and 2 years supervised release for criminal conspiracy to violate economic sanctions against Libya, Iran, and Iraq. He had previously been convicted of violation of the Libyan Sanctions Regulations, the Iranian Transactions Regulations, the Iraqi Sanctions Regulations, and the Export Administration Regulations for exportation of industrial equipment to the oil, gas, petrochemical, water, and power industries of Libya, Iran, and Iraq.

Various enforcement actions carried over from previous reporting periods have continued to be aggressively pursued. Numerous investigations are ongoing and new reports of violations are being scrutinized.

6. The expenses incurred by the Federal Government in the 6-month period from January 7 through July 6, 1999, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the Libyan national emergency are estimated at approximately $4.4 million. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of State, and the Department of Commerce.

7. In April 1999, Libya surrendered the 2 suspects in the Lockerbie bombing for trial before a Scottish court seated in the Netherlands. In accordance with UNSCR 748, upon the suspects' transfer, UN sanctions were immediately suspended. We will insist that Libya fulfill the remaining UNSCR requirements for lifting

UN sanctions and are working with UN Secretary Annan and UN Security Council members to ensure that Libya does so promptly. U.S. unilateral sanctions remain in force, and I will continue to exercise the powers at my disposal to apply these sanctions fully and effectively, as long as they remain appropriate. I will continue to report periodically to the Congress on significant developments as required by law.

William J. Clinton
The White House, July 19, 1999.

(13) Continuation of the National Emergency with Respect to Libya

THE WHITE HOUSE

OFFICE OF THE PRESS SECRETARY

TEXT OF A LETTER FROM THE PRESIDENT TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE

December 30, 1998

Dear Mr. Speaker: (Dear Mr. President:)

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Libyan emergency is to continue in effect beyond January 7, 1999, to the Federal Register for publication. Similar notices have been sent annually to the Congress and published in the Federal Register. The most recent notice was signed on January 2, 1998, and appeared in the Federal Register on January 6, 1998.

The crisis between the United States and Libya that led to the declaration of a national emergency on January 7, 1986, has not been resolved. The Government of Libya has continued its actions and policies in support of terrorism, despite the calls by the United Nations Security Council, in Resolutions 731 (1992), 748 (1992), and 883 (1993), that Libya demonstrate by concrete actions its renunciation of terrorism. Such Libyan actions and policies pose a continuing unusual and extraordinary threat to the national security and vital foreign policy interests of the United States. Furthermore, the Libyan government has not delivered the two Lockerbie bombing suspects for trial, even though the United States and United Kingdom accepted Libya's proposal to try the suspects in a Scottish court in a third country. Libya's stalling in handing over the suspects is yet another indication of Libya's continued support for terrorism and rejection of international norms. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure to the Government of Libya to reduce its ability to support international terrorism.

Sincerely,

William J. Clinton

NOTICE

CONTINUATION OF LIBYAN EMERGENCY

On January 7, 1986, by Executive Order 12543, President Reagan declared a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of the Government of Libya. On January 8, 1986, by Executive Order 12544, the President took additional measures to block Libyan assets in the United States. Every President has transmitted to the Congress and the Federal Register a notice continuing this emergency each year since 1986.

The crisis between the United States and Libya that led to the declaration of a national emergency on January 7, 1986, has not been resolved. The Government of Libya has continued its actions and policies in support of terrorism, despite the calls by the United Nations Security Council, in Resolutions 731 (1992), 748 (1992), and 883 (1993), that it demonstrate by concrete actions its renunciation of terrorism. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Libya. This notice shall be published in the Federal Register and transmitted to the Congress.

William J. Clinton
The White House, December 30, 1998.

(14) Report to Congress on Developments Concerning the National Emergency with Respect to Iran [1]

Message from the President of the United States transmitting a 6-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979, pursuant to 50 U.S.C. 1703(c)

PRESIDENT'S PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO IRAN AND IRANIAN ASSETS BLOCKING

I hereby report to the Congress on developments since the last Presidential report of November 16, 1998, concerning the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c) ("IEEPA"). This report covers events through March 31, 1999. My last report, dated November 16, 1998, covered events through September 30, 1998.

1. There have been no amendments to the Iranian Assets Control Regulations, 31 CFR Part 535 (the "IACR"), since my last report.

2. The Iran-United States Claims Tribunal (the "Tribunal"), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since the period covered in my last report, the Tribunal has rendered three awards. This brings the total number of awards rendered by the Tribunal to 591, the majority of which have been in favor of U.S. claimants. As of March 31, 1998, the value of awards to successful U.S. claimants paid from the Security Account held by the NV Settlement Bank was $2,502,365,655.22.

Since my last report, Iran has failed to replenish the Security Account established by the Algiers Accords to ensure payment of awards to successful U.S. claimants. Thus, since November 5, 1992, the Security Account has continuously remained below the $500 million balance required by the Algiers Accords. As of March 31, 1998, the total amount in the Security Account was $106,713,705.15, and the total amount in the Interest Account was $29,521,369.18. Therefore, the United States continues to pursue Case No. A/28, filed in September 1993, to require Iran to meet its obligation under the Algiers Accords to replenish the Security Account. In Case No. A/28, the United States filed a request for additional relief on November 30, 1998, to which Iran responded on March 8, 1999. The Tribunal has scheduled a hearing on this case for June 28-30, 1999.

The United States also continues to pursue Case No. A/29 to require Iran to meet its obligation of timely payment of its equal

[1] House Document 106–73, May 27, 1999.

share of advances for Tribunal expenses when directed to do so by the Tribunal.

3. The Department of State continues to present other United States Government claims against Iran and to respond to claims brought against the United States by Iran, in coordination with concerned government agencies.

Under the February 22, 1996, settlement agreement related to the Iran Air case before the International Court of Justice and Iran's bank-related claims against the United States before the Tribunal (see report of May 16, 1996), the Department of State has been processing payments. As of March 31, 1999, the Department has authorized payment to U.S. nationals totaling $17,615,113.84 for 56 claims against Iranian banks. In addition, the Department authorized transfer of $2,886,580.00 to the Tribunal for Iran's share of the Tribunal's operating expenses. The Department has also authorized payments to surviving family members of 242 Iranian victims of the aerial incident, totaling $60,600,000.00.

On December 29, 1998, the full Tribunal issued a partial award in cases A/15 and A/24. The Tribunal dismissed some Iran's claims and, with respect to other, held that the United States had failed to comply with obligations under the Algiers Accords to terminate claims against Iran in U.S. courts, and that the United States may be obligated to compensate Iran for expenses incurred in connections with such failures. In a subsequent phase, the Tribunal will determine the nature and amount of damages, if any, suffered by Iran.

In Case No. A/30, a case in which Iran alleges that the United States has violated paragraphs 1 and 10 of the General Declaration of the Algiers Accords, based on an alleged covert action program aimed at Iran and U.S. sanctions, the United States filed a submission on March 9, 1999, in response to Iran's request that the Tribunal require the United States to produce classified intelligence information.

4. U.S. nationals continue to pursue claims against Iran at the Tribunal. Since my last report, the Tribunal has issued awards in two private claims. On November 16, 1998, Chamber One issued an award in *Ford Aerospace & Communications v. Iran*, AWD No. 589–93–1, heeding Iran's "Request to Close the Case," and determining that the sole remaining issue, Iran's counterclaim against Ford Aerospace, was moot.

On January 13, 1999, Chamber One issued an award in *Rana Kipour v. Iran*, AWD No. 591–336–1, giving effect to a settlement agreement between the parties, under which the claimant was paid $850,000.

5. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States to implement properly the Algiers Accords. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

(15) Continuation of the National Emergency with Respect to Iran

THE WHITE HOUSE

OFFICE OF THE PRESS SECRETARY

TEXT OF A LETTER FROM THE PRESIDENT TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE

November 9, 1998

Dear Mr. Speaker: (Dear Mr. President:)

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency declared in 1979 is to continue in effect beyond November 14, 1998, to the Federal Register for publication. Similar notices have been sent annually to the Congress and the Federal Register since November 12, 1980. The most recent notice appeared in the Federal Register on October 1, 1997. This emergency is separate from that declared with respect to Iran on March 15, 1995, in Executive Order 12957.

The crisis between the United States and Iran that began in 1979 has not been fully resolved. The international tribunal established to adjudicate claims of the United States and U.S. nationals against Iran and of the Iranian government and Iranian nationals against the United States continues to function, and normalization of commercial and diplomatic relations between the United States and Iran has not been achieved. On March 15, 1995, I declared a separate national emergency with respect to Iran pursuant to the International Emergency Economic Powers Act and imposed separate sanctions. By Executive Order 12959 of May 6, 1995, these sanctions were significantly augmented, and by Executive Order 13059 of August 19, 1997, the sanctions imposed in 1995 were further clarified. In these circumstances, I have determined that it is necessary to maintain in force the broad authorities that are in place by virtue of the November 14, 1979, declaration of emergency, including the authority to block certain property of the Government of Iran, and that are needed in the process of implementing the January 1981 agreements with Iran.

Sincerely,

William J. Clinton

NOTICE

CONTINUATION OF IRAN EMERGENCY

On November 14, 1979, by Executive Order 12170, the President declared a national emergency to deal with the threat to the national security, foreign policy, and economy of the United States constituted by the situation in Iran. Notices of the continuation of this national emergency have been transmitted annually by the President to the Congress and the Federal Register. The most recent notice appeared in the Federal Register on October 1, 1997. Because our relations with Iran have not yet returned to normal, and the process of implementing the January 19, 1981, agreements with Iran is still underway, the national emergency declared on November 14, 1979, must continue in effect beyond November 14, 1998. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Iran. This notice shall be published in the Federal Register and transmitted to the Congress.

William J. Clinton
The White House, November 9, 1998.

2. Office of the Vice President

a. Report of the White House Commission on Aviation Safety and Security

Partial text of the report of the White House Commission on Aviation Safety and Security, submitted by the Vice President in compliance with Executive Order 13015 of August 22, 1996

VICE PRESIDENT AL GORE, CHAIRMAN

FEBRUARY 12, 1997

THE WHITE HOUSE

WASHINGTON, DC

Dear Mr. President,

We are pleased to present you with the report of the White House Commission on Aviation Safety and Security. You established this Commission by issuing Executive Order 13015 on August 22, 1996 with a charter to study matters involving aviation safety and security, including air traffic control and to develop a strategy to improve aviation safety and security, both domestically and internationally.

During the past six months, we have conducted an intensive inquiry into civil aviation safety, security and air traffic control modernization. Commission and staff have gathered information from a broad range of aviation specialists, Federal Agencies, consumer groups, and industry leaders.

After many months of deliberations we have agreed on a set of recommendations which we believe will serve to enhance and ensure the continued safety and security of our air transportation system.

We are privileged to submit these recommendations herewith.

Sincerely,

Vice President Al Gore, Chairman

In compliance with the Executive Order 13015 of August 22, 1996, the undersigned present the report of the White House Commission on Aviation Safety and Security.

Editor's Note:

l. The final two sentences of the first paragraph of Recommendation 4.4 have been changed to reflect the precise nature of the agreement by U.S. airlines.

2. The typed version of the final report inadvertently omitted manufacturers from the list of those to whom the Commission expressed appreciation. That mistake has been corrected in this edition.

3. In this edition, typographical errors have been silently corrected.

4. This edition contains as Appendix I a dissent by Commissioner Cummock which was transmitted to the Commission one week after the report was voted on in public session and presented to President Clinton.

During the public session, Commissioner Cummock dissented from three recommendations. The dissent published in this document goes far beyond those registered in public. It presents for the first time material and arguments the other Commissioners did not have an opportunity to consider. However, many of the arguments made in the dissent were considered and rejected by the other members of the Commission.

Supplemental material included in Commissioner Cummock's dissent is available upon request to Richard K. Pemberton, Office of the Secretary of Transportation, U.S. Department of Transportation.

INTRODUCTION

CHANGE.

That one word sums up both the challenges in aviation safety and security, and the means by which government and industry must respond. Change is nothing new in this field. The first powered flight, covering 120 feet in twelve seconds, took place just over ninety years ago. Today, planes cross the Atlantic Ocean in a matter of hours, as hundreds of passengers watch movies and dine. An industry that essentially did not even exist before World War I now occupies a central position in our economy. Today, commercial aviation generates over $300 billion annually, and accounts for close to one million American jobs.

The changes taking place in aviation today are as profound as any this industry has seen before. Since 1992, sixty new airlines have started service, opening up new markets, attracting new passengers, and impacting the economics of the industry significantly. The number of passengers flying in the United States over the last decade has grown to more than half a billion. The FAA has certified twenty new aircraft models in the last ten years, and plans are under consideration for a new High-Speed Civil Transport.

As dramatic as these changes have been, even more significant change looms on the horizon. Information technology presents opportunities that will again revolutionize the industry, in ways as significant as the introduction of the jet engine forty years ago. Air

traffic today is still controlled through ground-based radar, and on a point-to-point basis. Satellite-based navigation will bring a fundamental change in the way that air traffic is directed, and may make the notion of "highway lanes in the sky" as obsolete as the bonfires that used to guide early fliers. Digital technology will replace analog systems, making communications with and among aircraft dramatically faster, more efficient, and effective. These and other new technologies offer tremendous opportunities for improved safety, security and efficiency, and will transform aviation in the same way that the Internet and World Wide Web are transforming the way the world does business.

Other changes are even more imminent. By the end of the century, the commercial fleet serving the United States will have been completely overhauled, with aircraft that make a fraction of the old noise and emit far less pollution. Continuing success in the United States' efforts to open up foreign markets to competition by our airlines likely will mean more airlines, serving more markets, carrying more people. A continuation of the trend toward greater competition and lower fares will make flying even more available to average Americans than it is today. In fact, the FAA projects that, in 2007, more than 800 million passengers will fly in the United States—three times the number who flew in 1980.

This is a time of change for government, as well. President Clinton's declaration that "the era of big government is over," coalesced a bipartisan drive to make government work better and cost less. The Administration's commitment to government reform resulted not just from a desire to bring down government spending, but from a recognition that the same types of changes facing industries such as aviation face government, as well. Like the private sector, government must change with the times. The question is, how?

ESTABLISHMENT OF THE COMMISSION ON AVIATION SAFETY AND SECURITY

President Clinton created the White House Commission on Aviation Safety and Security to address that question, and assigned it three specific mandates: to look at the changing security threat, and how we can address it; to examine changes in the aviation industry, and how government should adapt its regulation of it; to look at the technological changes coming to air traffic control, and what should be done to take best advantage of them. In the wake of concerns over the crash of Trans World Airlines Flight 800, President Clinton asked the Commission to focus its attention first on the issue of security. He asked for an initial report on aviation security in 45 days, including an action plan to deploy new hightechnology machines to detect the most sophisticated explosives.

On September 9, 1996, the Commission presented that initial report to the President. It contained twenty recommendations for enhancing aviation security which are presented again in Chapter 3 of this report. The response to the initial report was unprecedented. In October 1996, at the request of President Clinton, the Congress appropriated over $400 million, in direct accord with the Commission's recommendations, for the acquisition of new explosives detection technology and other security enhancements. In the

five months since they were presented, implementation has begun on virtually all of the initial recommendations.

From its inception, the Commission took a hands-on approach to its work. President Clinton announced the formation of the Commission on July 25, 1996. A few days later, Vice President Gore led a site visit to Dulles International Airport, where he and other Commissioners saw airport and airline operations first-hand, and discussed issues with front line workers. This was the first of dozens of such visits. Over the next six months, the Commission visited facilities throughout the United States and in various locations abroad. Seeking to reach the broadest possible audience, the Commission established a homepage on the Internet (http://www.aviationcommission.dot.gov), both to make the Commission's work available and to receive input. The web site has had almost 7,000 contacts, many providing valuable insights. The Commission held six public meetings, hearing from over fifty witnesses representing a cross section of the aviation industry and the public, including families of victims of air disasters. Recognizing the increasingly global nature of aviation, the Commission co-sponsored an International Conference on Aviation Safety and Security with the George Washington University, attended by over 700 representatives from sixty-one countries.

Out of this extensive process, the Commission compiled the recommendations presented in this final report.

A VISION FOR THE FUTURE

To compete in the global economy of the 21st Century, America needs a healthy, vibrant aviation industry. In turn, the health and vibrancy of aviation depend on improved levels of safety, security and modernization. For the last fifty years, the United States has led the field of aviation. But, that position is being challenged, both by competition from abroad and by weaknesses in our own systems.

These weaknesses can be overcome. The Commission believes that it should be a national priority to do so. This report outlines steps that can set government and industry on a course to achieve that goal together. Heading into the next century, our activities, programs, and results should define aviation safety and security for the rest of the world.

Leadership in aviation goes far beyond having strong, competitive airlines. It means assuring leadership in communications, satellite, aerospace, and other technologies that increasingly are defining the global economy. It means more than the highest possible levels of safety and security for travelers.

The Commission's report reflects a focus on this vision: to ensure greater safety and security for passengers; to restructure the relationships between government and industry into partnerships for progress; and to maintain global leadership in the aviation industry.

KEY RECOMMENDATIONS

In the area of safety, the Commission believes that the principal focus should be on reducing the rate of accidents by a factor of five within a decade, and recommends a re-engineering of the FAA's regulatory and certification programs to achieve that goal.

In the area of air traffic control, the Commission believes that the safety and efficiency improvements that will come with a modernized system should not be delayed, and recommends that the program be accelerated for to achieve full operational capability by the year 2005. In addition, a more effective system must be established to finance modernization of the National Airspace System and enhancements in safety and security.

In the area of security, the Commission believes that the threat against civil aviation is changing and growing, and that the federal government must lead the fight against it. The Commission recommends that the federal government commit greater resources to improving aviation security, and work more cooperatively with the private sector and local authorities in carrying out security responsibilities.

Although not specifically directed to do so, the Commission also took up the issue of responding to aviation disasters. In this area, the Commission believes that a better coordinated and more compassionate response is necessary, and that the responsibility for coordinating the response needs to be placed with a single entity. The Commission is pleased with the progress made to date in this area, including the designation of the National Transportation Safety Board as that single entity.

Many of the Commission's recommendations apply equally to each of the three major areas of focus, including those relating to regulation and certification. Primary among these recommendations is the call for greater use of partnerships in meeting goals. Regulatory and enforcement agencies such as the Customs Service, the Occupational Safety and Health Administration, and the Food and Drug Administration have put new emphasis on partnerships with industries, and are achieving tremendous results: seizing more drugs while expediting travel for legitimate travelers; reducing workplace accidents while increasing productivity; and getting important new AIDS and cancer-fighting drugs to market in a fraction of the time it used to take.

The premise behind these partnerships is that government can set goals, and then work with industry in the most effective way to achieve them. Partnership does not mean that government gives up its authorities or responsibilities. Not all industry members are willing to be partners. In those cases, government must use its full authority to enforce the law. But, through partnerships, government works with industry to find better ways to achieve its goals, seeking to replace confrontation with cooperation. Such partnerships hold tremendous promise for improving aviation safety and security. A shift away from prescriptive regulations will allow companies to take advantage of incentives and reach goals more quickly.

Transportation Secretary Peña's cooperative program with airlines to establish a single level of safety is an example of innovative government-industry partnership. Another is Vice President Gore's January 15, 1997 announcement that Boeing, in concert with government agencies, had developed a plan to modify the rudders on hundreds of its 737 aircraft. By acting without waiting for a government mandate, Boeing will complete many of these safety-

enhancing modifications before the government could complete a rule requiring the action.

Partnership must extend not only to regulated entities, but also to the various federal agencies involved with aviation safety and security. A number of agencies outside the Department of Transportation have expertise and resources that can have a direct impact on improving safety and security. The Commission urges the Administration to continue to work to expand and improve these intergovernmental relationships.

In the last few years, the FAA has begun to recognize and respond to the tremendous changes it faces. Reviews such as the Challenge 2000 report examined ways of improving the way the FAA regulates operators and manufacturers. Now is the time for the FAA to build on that work, and aggressively reengineer itself to adapt to the demands of the 21st Century.

It is important to note that the FAA, alone among federal agencies, has been given some critical new tools to help shape its own future. A new Management Advisory Council will provide valuable input to the agency's decision-making process. In 1995, the Congress granted the Clinton Administration's request for unprecedented reforms of the FAA's personnel and procurement systems. These reforms give the FAA almost unlimited latitude to design new systems to meet the agency's unique and particular needs. The first phases of these reforms were implemented in April 1996, and are already producing dividends. The FAA used to have 233 procurement documents, and today there are less than 50. Using its streamlined process, the FAA recently completed a billion dollar procurement in six months, with no protests. Under the old system, it would have taken three times as long, and likely would have been delayed by costly protests. A stack of personnel rules that used to be one-foot high has been reduced to 41 pages, and will allow the agency to hire people where they're needed and when they're needed.

This flexibility will be critical to meeting the challenges of the next century. As former FAA Administrator David Hinson recently noted, this type of reform is "the seed for what needs to happen at the FAA." The incoming leadership at the Department of Transportation and the FAA must utilize fully the flexibilities that have been granted if the agency is to keep pace with the rapidly changing industry it regulates.

RESPONSIBILITY FOR IMPLEMENTING CHANGE

The Commission's goal for aviation in the next century may be summed up by the words of Robert Crandall, Chairman of American Airlines, when he said, "We would like the public to take safety and security as a given. If that is going to happen, change is necessary."

The responsibility for achieving that change lies with all the partners in aviation. The Administration, the Congress, the entire aviation industry and its employees must work together to make the changes that are necessary to keep pace with the challenges facing them. Commitments must be made at the highest levels of every organization, in government and in the private sector.

To ensure that the government remains focused on the goals established in this report, the Commission recommends three steps:

(1) that the Secretary of Transportation report publicly each year on the implementation status of these recommendations;

(2) that the President assign the incoming leadership at the Department of Transportation and the FAA the clear mission of leading their agencies through the necessary transition to re-engineered safety and security programs; and

(3) that the performance agreements for these positions, which the documents that senior managers sign with the President outlining their goals and specific means of measuring progress, include implementation of these recommendations.

CHAPTER ONE: IMPROVING AVIATION SAFETY

> "The FAA, despite its professionalism and many accomplishments, was simply never created to deal with the environment that has been produced by deregulation of the air transport industry."
>
> —Stuart Matthews, President and CEO, Flight Safety Foundation.

Commercial aviation is the safest mode of transportation. That record has been established not just through government regulation, but through the work of everyone involved in aviation—manufacturers, airlines, airport operators, and a highly-skilled and dedicated workforce. Their combined efforts have produced a fatal accident rate of 0.3 per million departures in the United States. The accident rate for commercial aviation declined dramatically between 1950 and 1970. But, over the last two decades, that rate has remained low, but flat. Heading into the next century, the overall goal of aviation safety programs is clear: to bring that rate down even lower.

Focusing on the accident rate is critical because of the projected increases in traffic. Unless that rate is reduced, the actual number of accidents will grow as traffic increases. Given the international nature of aviation, cutting the accident rate is an imperative not just for the United States, but for all countries involved in aviation. Accident rates in some areas of the world exceed those in the U.S. by a factor of ten or more. Boeing projects that unless the global accident rate is reduced, by the year 2015, an airliner will crash somewhere in the world almost weekly.

While fatality rates in general aviation are higher than in commercial operations, the principal causes of general aviation accidents are similar to commercial aviation accidents. The Commission's recommendations will help address the safety of general aviation as well.

Lessons from reinventing government must be applied to aviation programs. Improvements in safety and security will result from a focus on several key areas: expanded use of partnerships; reengineering of the FAA's regulatory and certification processes; greater focus on human factors and training; and, the faster introduction of proven new technologies. These technologies are enabling the introduction of increasingly sophisticated automation into virtually every aspect of aviation operations. They offer opportuni-

ties for improved safety, security, and efficiency, and are driving the aviation industry toward an integrated system that will alter many of the things that have remained unchanged in aviation for decades.

Adapting to these changes will require renewed commitments from all partners, and a willingness to re-engineer long-standing practices and procedures. This change also calls for a cultural transformation of the FAA to improve its ability to regulate and lead the development of the integrated aviation system on the horizon. In the areas of regulation and certification, the Challenge 2000 report represents a good first step. However, it and other internal reviews have not provided a comprehensive, agency-wide assessment of the need for change. That is what is needed.

A strong government-industry partnership is needed to develop and integrate the research, standards, regulations, procedures, and infrastructure needed to support the aviation system of the future. The FAA has applied this approach successfully to cooperative research projects with NASA in the development of advanced air traffic technologies. The Commission encourages these agencies and others to expand their cooperative efforts in aviation safety research and development.

Regular and random inspection of airlines and facilities should remain an important part of the FAA's safety and security oversight programs. However, given the tremendous growth and globalization in the industry, it is neither realistic nor desirable to expect the FAA to rely on hands-on inspections to ensure safety. It is critical that industry be given the incentives and flexibility to be full partners in this effort, and be encouraged to monitor and improve their own performance. This will not only produce better focus on results, but will also allow the FAA to deploy its resources more effectively.

RECOMMENDATIONS

1.1 Government and industry should establish a national goal to reduce the aviation fatal accident rate by a factor of five within ten years and conduct safety research to support that goal.

Historically, major advances in aviation safety have been driven by technological improvements in airframes, engines, communications, radar and other areas. Today, information technology can help aviation make the next leap forward in safety.

Aviation safety experts at the FAA and at NASA are confident that a five-fold reduction in the fatal accident rate could be achieved in the next decade given the right resources and focus. The Commission urges the FAA, NASA and industry to step up to this challenge. Achieving this goal will require the combined efforts of government and industry focused on three objectives: preventing equipment malfunctions; reducing human-caused mishaps; and ensuring separation between aircraft and other air or ground hazards. Government can play a strong role in research and development, but it must be in partnership with industry, which ultimately is responsible for operating safely. The Commission urges NASA, which has considerable expertise and resources in the area of safety research, to expand its involvement in the promotion of aviation safety.

1.2. The FAA should develop standards for continuous safety improvement, and should target its regulatory resources based on performance against those standards.

The FAA should promote aviation safety and security by setting high standards, requiring aviation businesses to monitor and improve their own safety performance, and by developing objective methods of measuring the ability of companies to monitor and improve its own safety. Significant efforts have already been made in this direction. Current regulations, for example, require commercial air carriers to implement a Continuing Analysis and Surveillance Program to evaluate the effectiveness of their maintenance and inspection processes. Significant investment and effort have been put into developing the Safety Performance Analysis System, which will allow safety inspectors to compare the performance of similar operators to identify trends that could lead to reduced levels of safety. Such approaches to aviation safety oversight should be broadened. Operators should be encouraged to implement systems that ensure their continued compliance with regulations and that promote continuous improvements in aviation safety and security.

Last year, the FAA undertook an independent review of its regulatory and certification programs. That effort, known as Challenge 2000, recommended in part that the agency move toward implementing rules that establish performance standards where possible, and that the rulemaking process be streamlined and reengineered. Further, the report urged that the regulatory process be restructured to provide compelling technical and business incentives for industry to develop and certify products that help fulfill priority safety needs.

The Commission recognizes the value of the Challenge 2000 report, and urges the FAA and industry to work together to develop standards for continuous safety and security improvement that recognize variations in company maturity and best industry practices. These standards should serve as the basis for certification, regulation and oversight of the aviation industry. Objective criteria should be developed that enable the FAA to assess each organization's safety improvement processes and performance, and use this assessment to improve performance throughout the industry. As an incentive to implement effective safety and security improvement programs, FAA oversight should be adjusted to recognize the maturity and actual performance of individual operators and manufacturers. Such an approach will allow the FAA to target its inspector resources on those operators demonstrating the greatest risk, while allowing mature operators and manufacturers to manage their organizations without unproductive FAA involvement. The FAA should adjust its internal classifications and rankings of inspectors to reflect this change.

1.3 The DOT and the FAA should be more vigorous in the application of high standards for certification of aviation businesses.

In the past, both the FAA and the DOT have devoted significant resources to helping new companies meet regulatory requirements and manage their operations. The recent 90 Day Safety Review conducted by the DOT and the FAA determined that this is an inappropriate role for the government and recommended many actions that will improve the certification process. The Commission

agrees. While the government should assist companies in improving the safety and security of their operations, it should not use its resources to compensate for lack of experience, technical expertise or judgment in a company's day-to-day operations.

In some cases, the FAA's certification standards and processes have not kept up with the changing needs of civil aviation. For example, current standards for hiring security personnel do not take into account changes in explosives detection technology. And the certification of engines and airframes still reflects a time when these systems were produced as completely independent systems. Today, engine and airframe development is integrated, so the certification process must take into account the entire system rather than its individual parts. In the future, as the airplane becomes an integral component of the air traffic management system, the certification of the aircraft, as part of an integrated aviation system, will become even more important.

The FAA demonstrated its ability to integrate these processes and work effectively with industry in the certification of the Boeing 777 airplane. Lessons from the 777 certification should be applied to the way the FAA certificates airplanes in the future. Additional certification tools and processes should be developed to encourage the introduction of new technologies.

Considerable attention has been given to the issue of outsourcing of maintenance and other work, particularly in the wake of the Valujet crash. The Commission does not believe that outsourcing, in and of itself, presents a problem—if it is performed by qualified companies and individuals. The proper focus of concern should be on the FAA's certification and oversight of any and all companies performing aviation safety functions, including repair stations certificated by the FAA but located outside of the United States,.

1.4. The Federal Aviation Regulations (FARs) should be simplified and, as appropriate, rewritten as plain English, performance-based regulations.

The Commission believes that government can achieve better regulatory compliance if its objectives are stated clearly and its focus is on goals, not process. While that sounds simple, the FAA's rules too often do not meet those criteria.

The Commission urges the FAA to take two steps to address this problem. First, as appropriate, all new rules should be rewritten as performance-based regulations, and in plain English. Second, within 18 months, a bottom-up review of existing regulations should be conducted to identify those in need of rewriting as performance-based, plain English regulations. Such clarifications would improve compliance and help the FAA resolve serious problems created by differences in interpretation of regulations by FAA officials across the country.The current FARs and supporting Handbooks, Technical Standards Orders, Security Directives, and Advisory Circulars have become too prescriptive and complex and are increasingly open to misinterpretation. Sometimes they provide conflicting policy or procedural guidance. They often stifle the creativity of those who would do more than the rules require. In many cases, the FARs do not allow for advances in technology that increase security, safety or efficiency. For example, the FARs currently have no provisions for design criteria to protect aircraft from high intensity

electromagnetic fields such as those emanating from TV antennas, radars, cellular phones, portable stereos, and laptop computers. These electromagnetic fields are potentially hazardous to aircraft using digital communications, avionics and flight controls. The FAA has been working for more than eight years to develop standard certification requirements to address these hazards, but today each certification is handled through the use of special conditions. Mandating performance rather than dictating procedures will break the regulatory logjam.

1.5. Cost alone should not become dispositive in deciding aviation safety and security rulemaking issues.

As noted earlier, the rate of fatal accidents in commercial aviation in the U.S. is less than 0.3 per million departures. The rarity of accidents can make it difficult to justify safety and security improvements under benefitcost criteria applied to regulatory activities. Nevertheless, benefitcost analysis can enlighten the regulatory decisionmaking process. For example, such analysis can help identify the most costeffective way to achieve a safety or security objective. Cost considerations and mathematical formulas, however, should never be dispositive in making policy determinations regarding aviation safety they are one input for decisionmaking. Further, non-quantifiable safety and security benefits should be included in the analysis of proposals.

1.6. Government and industry aviation safety research should emphasize human factors and training.

Over the past ten years, flight crew error accounted for over 60% of all aviation accidents world-wide. And over the past five years, two types of flight crew error, loss of control in flight and controlled flight into terrain, accounted for over 70% of all airline fatalities. Moreover, recent airport testing of explosive detection systems revealed significant deficiencies in the performance of security personnel. Research, technology, training and sharing of safety data can reduce human error. Aviation safety and security have always depended upon a talented and dedicated workforce. Today, changes in technology are presenting that workforce—flight crews, ground and air traffic controllers, maintenance technicians—with new challenges. The aviation system will continue to rely on these highly skilled people to be responsible for all aspects of operations, and it is critical to assess and address issues relating to human interaction with changing technologies.

The FAA, NASA, the DoD, and the aviation industry jointly developed a National Aviation Human Factors Plan that describes a strategic approach to solving the problem of human-caused mishaps. Two additional studies, one by the FAA dealing with flight deck human factors and the other published by representatives from government, industry, and union organizations as their 1997 Aviation Safety Plan, identify a wide range of safety issues, including human factors. The Commission acknowledges the importance of all three of these reports and urges the immediate development of an implementation plan.

1.7. Enhanced ground proximity warning systems should be installed in all commercial and military passenger aircraft.

The introduction of ground proximity warning systems (GPWS) in commercial aircraft in the late–1970s led to significant reduc-

tions in controlled flight into terrain, the second-leading cause of aviation accidents. These accidents occur when pilots cannot reconcile their positions with changing terrain. Current GPWS systems are not predictive, however, and only warn pilots when ground impact is imminent. Several recent incidents indicate the need for a forward-looking system that can provide better situational awareness and advanced warning to pilots when they are approaching hazardous terrain. Digital terrain elevation data developed for military purposes can help provide this capability.

On January 15, 1997, Vice President Gore announced that the Department of Defense is releasing a version of its global digital terrain elevation database for use in the civilian sector. Combined with advanced navigation systems, this will provide pilots with the tools that they need to reduce, and maybe even eliminate, these kinds of accidents in the future.

The Commission applauds the voluntary introduction of advanced ground proximity warning systems in commercial aircraft, and urges all segments of the aviation community to install this vital safety system. To achieve this goal, the Commission urges the FAA to work with industry to develop and promote the use of such equipment in general aviation aircraft.

1.8. The FAA should work with the aviation community to develop and protect the integrity of standard safety databases that can be shared in accident prevention programs.

The identification of deviations from normal operations, adverse trends, and other incidents can be a valuable tool in preventing accidents. The most effective way to identify incidents and problems in aviation is for the people who operate in the system (pilots, mechanics, controllers, dispatchers, etc.) to self-disclose the information. There are a number of separate safety data collection efforts ongoing within government and industry. Many of these efforts either duplicate existing data, report the same information, or are not interconnected or integrated. The FAA should work with the aviation community to develop standard databases of safety information that can be shared openly and encompass operations within the aviation industry as well as those within the FAA, such as air traffic control.

People and companies will not provide or assemble safety data or information if the information will disclose trade secrets, if it can threaten a person's job or be used in an enforcement action against a person or company, or if it can in any way cause them a liability. Data protection is the key to self-disclosure. The Flight Safety Foundation has studied this issue and concluded that legislation is the only way to guarantee protection of safety data. The joint industry/DOT Aviation Safety Plan cites data protection as a key to achieving Zero Accidents. The Congress, at the request of the Administration, recently enacted legislation providing for the protection from public disclosure of certain safety and security data voluntarily provided to the FAA. The FAA needs to expeditiously complete its rulemaking to implement this legislation. Since adequate legislative protection is key to building the trust necessary for self disclosure and safety monitoring, the FAA should assess the adequacy of the new legislative authority and implementing regulations one year after the regulations take effect. Any necessary reg-

ulatory or legislative modifications identified at that time should be promptly addressed.

1.9. In cooperation with airlines and manufacturers, the FAA's Aging Aircraft program should be expanded to cover non-structural systems.

The average age of commercial airline fleets is continuing to increase. In 1975, few large commercial aircraft were in service beyond their original design life, typically twenty years. But with increased competition and growth in passenger and cargo traffic brought on by deregulation, service lives of dependable aircraft models were extended through expanded maintenance and overhaul programs. By the year 2000, more than 2,500 commercial aircraft in the United States may be flying beyond their original design life.

In 1988, a Boeing 737 in Hawaii suffered severe structural failure of its forward fuselage sections due to corrosion not visible during normal maintenance inspections. As a direct result of this accident, the FAA greatly expanded its structural integrity inspection program and formed the Airworthiness Assurance Working Group (AAWG). Its focus has been almost exclusively on structural integrity, and the effects of structural corrosion and fatigue. The programs in existence under the AAWG have been effective and are considered adequate to deal proactively with the structural problems associated with aging commercial aircraft.

However, much less is known about the potential effects of age on non-structural components of commercial aircraft. Non-structural components include electrical wiring; connectors, wiring harnesses, and cables; fuel, hydraulic and pneumatic lines; and electro-mechanical systems such as pumps, sensors, and actuators. Neither the manufacturers nor the commercial airlines consider the aging of non-structural components to pose serious safety problems primarily because they consider their redundancy, replacement upon failure, and periodic, programmed maintenance to be sufficient to assure aircraft safety.

The Commission is concerned that existing procedures, directives, quality assurance, and inspections may not be sufficient to prevent safety related problems caused by the corrosive and deteriorating effects of non-structural components of commercial aircraft as they age. To address this, the Commission recommends that the FAA work with airlines and manufacturers to expand the aging aircraft program to include non-structural components, through steps including: full and complete tear-downs of selected aircraft scheduled to go out of service; the establishment of a lead-the-fleet research program; an expansion of the FAA-DoD-NASA cooperative aging aircraft program; an expansion of programs of the Airworthiness Assurance Working Group to include non-structural components; and encouraging the development of modern technical means to ensure and predict the continued airworthiness of aging non-structural components and systems.

1.10. The FAA should develop better quantitative models and analytic techniques to inform management decision-making.

The FAA is called upon to evaluate many proposals for safety and security improvements and capacity enhancements as part of its NAS modernization, and other programs. The FAA does not

have a developed model for the air traffic control system that permits the systematic evaluation and comparison of these proposals with respect to their life-cycle cost and their likely effects on the operation of the air traffic control system. If available, such analysis would be of great assistance to support decision-making by the FAA and the DOT leadership.

The Commission urges the FAA to strengthen its analytic and planning tools, especially through the development of models that give insight into the system-wide consequences of alternative courses of action and the development of a credible cost accounting system, as mandated in the Federal Aviation Reauthorization Act of 1996.

1.11. The DOT should work with the Department of Justice to ensure that airline crew members performing their duties are protected from passenger misconduct.

Passenger behavior that amounts to criminal conduct is a matter of growing concern to U.S. airlines. When crew members are called upon to enforce in-flight safety and security rules and regulations, they are working to ensure that our aviation system remains safe and secure. Their responsibilities at times require them to confront passengers who are unwilling to comply with lawful instructions and become abusive. Such conduct by passengers threatens the well-being of all those on the plane, and is subject to federal prosecution. The Commission urges the DOT to work with the Department of Justice and the United States Attorneys to ensure that priority is given the prosecution of offending passengers to the fullest extent of the law for interfering with airline crew members in the performance of their duties.

1.12. Legislation should be enacted to protect aviation industry employees who report safety or security violations.

In a number of important industries, statutory protection is provided to "whistleblowers" who report violations of safety procedures. The Commission believes that aviation safety and security will be enhanced if employees, who are a critical link in safety and security, are able to report unsafe conditions to the FAA without fear of retribution from their employers. Some aviation employees are provided protections through contractual agreements. However, the Commission believes that statutory protection, such as that provided to workers under the Occupational Health and Safety Act, would provide uniformity within the industry and provide coverage to those not already protected.

1.13. The FAA should eliminate the exemptions in the Federal Aviation Regulations that allow passengers under the age of two to travel without the benefit of FAA-approved restraints.

Current regulations require that all passengers over the age of two have their own seats, and that those seats are equipped with FAA-approved restraints. The Commission believes that it is inappropriate for infants to be afforded a lesser degree of protection than older passengers. The FAA should revise its regulations to require that all occupants be restrained during takeoff, landing, and turbulent conditions, and that all infants and small children below the weight of 40 pounds and under the height of 40 inches be restrained in an appropriate child restraint system, such as child safety seats, appropriate to their height and weight. The Commis-

sion also notes and commends the FAA's ongoing efforts in collaboration with major airframe and seat manufacturers to develop standards for integrated child safety seats.

1.14. The Commission commends the joint government-industry initiative to equip the cargo holds of all passenger aircraft with smoke detectors, and urges expeditious implementation of the rules and other steps necessary to achieve the goal of both detection and suppression in all cargo holds.

In December 1996, most of the nation's major airlines announced a voluntary action to install smoke detection systems in the cargo holds of commercial airplanes and to study additional measures for fire suppression. This announcement broke a deadlock that had existed for most of the last decade. The Commission commends this initiative as an example of the partnership that will be necessary to enhance safety and security.

CHAPTER TWO: MAKING AIR TRAFFIC CONTROL SAFER AND MORE EFFICIENT

> "While the airlines are posting record traffic figures and profits, the ground-based air traffic control infrastructure is outdated and unable to keep pace with expansion."
>
> —Barry Krasner, President of the National Air Traffic Controllers Association

It is essential that the air traffic system of the United States be modernized. Although the current system remains safe, it is showing signs of aging. System outages, brownouts, inefficiencies in air traffic control, and capacity limitations on the ground add costs to the FAA and to users of the airspace system. The Air Transport Association estimates that inefficiencies in the system cost airlines in excess of $3 billion in 1995—costs ultimately paid by passengers and anyone who purchases goods shipped by air.

In 1996, a government-industry task force defined a future operational concept known as Free Flight. Under this concept, national airspace system (NAS) operations will transition from ground-based air traffic control (using analog radios, navigational beacons and radar) to more collaborative air traffic management based on digital communication, satellite navigation, and computer-aided decision support tools for controllers and pilots. This proposed new system offers significant benefits for users of the NAS, for the safety and convenience of the traveling public, and for greater FAA operational efficiency.

The FAA's proposed technical approach and schedule for NAS modernization are documented in its recently published National Airspace System Architecture. The proposed NAS architecture is generally consistent with industry's vision for the future of air traffic management, but the proposed schedule for modernization is too slow to meet projected demands and funding issues are not adequately addressed. Unless the schedule is accelerated, the United States may lose its position of global leadership in civil aviation.

The technology needed to modernize the ATC system by and large exists, and is available off-the-shelf. The challenge is completing the transition to the new system in a timely and cost-effective manner, and ensuring that all users participate in the up-

grade. Unfortunately, the FAA has encountered serious problems in its modernization program. Before major changes were made in 1994, the centerpiece of the FAA's modernization program had, according to the General Accounting Office, fallen eight years behind schedule, and was $5 billion over budget. Cost overruns in five other key programs ranged from 50 to more than 500%, and delays averaged close to four years.

These problems have been traced to inadequate user input, poor management and contractor performance, and inadequate oversight. Although availability of funds does not appear to have been a problem in the past, the capital needs of the future could well outstrip the ability to fund them through the traditional budget process, particularly as capital improvements are accelerated, as recommended by the Commission.

Traditionally, the FAA has seen it necessary to design, own and operate its air traffic control system, in cooperation with the Department of Defense. Current off-the-shelf technology allows the FAA to consider its needs differently, particularly in areas such as the acquisition of communications systems. In other critical areas of government, including Defense, the private sector has proved its ability to provide critical services with increased quality and lower costs. A number of major U.S. manufacturers are producing new ATC systems for deployment in other countries. The FAA should seek collaborative opportunities with the private sector in order to accelerate the transition to a new NAS.

There have been several important changes that should allow the modernization program to move forward more effectively. The Commission notes, in particular, the following factors which should help avoid problems of the past: the redefinition of the modernization program; the personnel and procurement reforms granted the FAA, which give it unprecedented ability to hold managers accountable for results and to streamline procurement processes; and the creation of the new Management Advisory Committee by the Congress, which will give users a more effective voice in decision-making. However, the Commission believes that a new long-term financing mechanism is also necessary to ensure that modernization occurs on an acceptable schedule, and that the resulting safety and efficiency benefits are realized faster.

The FAA must take advantage of personnel, procurement, and other reforms to ensure that it is spending existing resources more effectively in order to gain approval of innovative funding proposals from the Administration and the Congress. Additionally, the Commission believes that it is critical that the senior management at the DOT and the FAA take additional steps to ensure that past problems are being dealt with, and that an accelerated modernization schedule can proceed.

RECOMMENDATIONS

2.1. The FAA should develop a revised NAS modernization plan within six months that will set a goal of the modernized system being fully operational nationwide by the year 2005; and the Congress, the Administration, and users should develop innovative means of financing this acceleration.

Modernization of our aging airspace system is critical to the safety of the traveling public, to maintaining our world leadership in aviation, and to our economic interests. The FAA's current plan calls for the modernized system to be operational after 2012. That is simply too long to postpone the safety and economic benefits that will derive from the modernized system. Therefore, the Commission recommends that 2005 be set as the date when all elements of the communication, navigation, and surveillance and air traffic management capabilities defined in the NAS architecture should be fully operational. This accelerated implementation must be coordinated with the Department of Defense, which is a major user and provider of air traffic control services. Implementation of the initiative announced by Vice President Gore on January 15, 1997 to demonstrate these systems in Hawaii and Alaska is an important step toward full operational status.

Achieving this goal depends on the availability of several tools, as discussed in the following recommendations. Chief among these tools is the need to find non-traditional means of financing the capital improvements. Innovative approaches to federal financing of major infrastructure projects have been proposed in the past, including leveraging the revenues coming into the FAA, multi-year appropriations and non-traditional budget scoring. Non-federal financing approaches have also been proposed, such as the creation of private infrastructure banks. The Commission expects that the National Civil Aviation Review Commission (NCARC), established in the Federal Aviation Reauthorization Act of 1996 by Congress to explore funding options for the FAA, will consider these options. Whatever the funding mechanism selected, the Commission believes it is critical to our global leadership in civil aviation to finance an accelerated modernization of the NAS.

2.2. The FAA should develop plans to ensure that operational and airport capacity needs are integrated into the modernization of the NAS.

The FAA's current NAS modernization program focuses on equipment and infrastructure. However, there is no clear plan for how the people who operate the system will make the transition, and what their roles and responsibilities will be under the new systems. The FAA should develop immediately a NAS Operational Plan to address these issues.

The FAA should also develop a National Airport System Modernization Plan that presents a strategic vision, plan and schedule for modernization of U.S. airports that is consistent with modernization of the NAS. This plan, produced in collaboration with local airport officials, should identify critical system capacity enhancement needs and should address major safety issues at airports. These plans, when incorporated into the revised NAS implementation plan called for in recommendation 2.1, would provide a balanced strategic plan for aviation in the United States.

2.3. The FAA should explore innovative means to accelerate the installation of advanced avionics in general aviation aircraft.

The safety and efficiency benefits of the modernized NAS will not be realized fully until all users have incorporated its features. Delays in the installation of the equipment needed to operate in the future NAS will put off the benefits for all system users. There-

fore, it is essential that the FAA, as it accelerates its modernization, works with users to ensure that they keep pace.

Savings from more efficient operations provide significant incentive for commercial carriers to install the required digital radios, GPS receivers, and automatic dependent surveillance equipment. But it is essential to find ways to ensure general aviation users are equipped for future NAS operations.

2.4. The U.S. government should ensure the accuracy, availability and reliability of the GPS system to accelerate its use in NAS modernization and to encourage its acceptance as an international standard for aviation.

Satellite-based navigation and positioning is a core element of our NAS modernization plans, and is critical to achieving a seamless, efficient global aviation system in the future. The U.S. Global Positioning System (GPS), which is a dual civil-military system operated by the U.S. Air Force, is the current and foreseeable backbone for any global navigation satellite system. Full acceptance of GPS as an international standard for aviation is dependent on greater assurance to the user community—both foreign and domestic—of its accuracy, availability and reliability. As part of its NAS modernization plans, the FAA is currently developing a Wide Area Augmentation System (WAAS) that will enhance the basic GPS civil service to meet the requirements of civil aviation users. Many other nations, including Europe and Japan, are planning similar augmentations, but are still somewhat reluctant to base their own airspace management on a GPS system which they perceive to be controlled by the U.S. military.

The recent U.S. GPS policy made considerable progress in addressing these international concerns by assuring the continued availability of basic civil GPS services worldwide, free of direct user fees. This new policy also established a joint civil-military Executive Board to manage GPS and its augmentations, and initiated formal international discussions aimed at developing agreements on the provision and use of GPS services. But, there are still a number of important technical and policy issues that must be resolved if GPS is to become the system of choice for global aviation navigation and positioning.

First, the U.S. must provide stronger strategic leadership for civil users of GPS. The acceptance of GPS as an international standard is key to continued U.S. leadership in aviation, and can only be achieved through strong civilian participation in GPS planning and decision-making. A number of working groups and advisory committees currently exist throughout the Federal government and the private sector to coordinate and represent the needs of civil users of GPS. The Commission recommends that civilian leadership be strengthened by establishing a Civil GPS Users Advisory Council, with representatives from both the users and providers of GPS equipment and services, reporting to the GPS Executive Board. The Commission also encourages the Administration to work rapidly on the development of international guidelines on the provision and use of GPS services called for in the President's recent GPS policy directive.

Second, greater redundancy is needed to enhance the ability of users to cross-check GPS accuracy and to verify the system's reli-

ability. The most effective means of achieving this redundancy is to provide additional civil GPS precision ranging signals in space. Studies have shown that additional precision ranging capability can be achieved at relatively little cost while providing enormous benefits to all civil GPS users. The Commission recommends that this capability be added to the FAA's WAAS system. This action will result in a more robust and inherently more reliable system and will provide a major boost to the international acceptance of GPS as a standard for aviation navigation and positioning.

Third, the GPS Executive Board should resolve the remaining issues over funding and frequency assignment for a second civil frequency as quickly as possible so that this needed improvement can be included in the next generation of GPS satellites. The GPS Executive Board is considering enhancements to future GPS satellites that would include an additional broadcast frequency. This additional frequency would expand the base of civil GPS users worldwide and would send a strong message to the international community that the U.S. intends to maintain a long-term commitment to providing civil GPS services. Moreover, the FAA's WAAS system requires two frequencies to meet the accuracy needs of civil aviation users, and the additional frequency would allow for complete independence of civil and military GPS services in the future.

Fourth, the GPS system must be protected from both intentional and unintentional interference. The GPS system will be a core, safety-critical component of the future global aviation information system. The security of GPS should be a major consideration in carrying out Recommendation 3.6 for protecting all aviation information systems.

2.5. The users of the NAS should fund its development and operation.

The current system of funding the ATC system provides little direct connection between the excise taxes paid and services provided or the amount made available to the FAA through the budget and appropriations process. Replacing the traditional system of excise taxes with user fees offers the potential to correlate revenues and spending more closely.[1] Importantly, a financing system would not only help ensure adequate availability of funding , but would also build incentives for efficiency and safety into the system—both for the users and for the FAA. The National Civil Aviation Review Commission is the proper venue for resolving the details of a new user fee system, and the Commission expects that it will be formed and begin its work in the very near future. The Commission urges the NCARC, in designing a new financing system, to ensure that any changes in the relative amount of revenues generated from any segment of the aviation industry do not result in undue economic disruption within any segment of the industry, and that the fees are not discriminatory or anti-competitive among carriers. In addition, non-business general aviation users of the NAS should not be adversely impacted by any new financing system. This will help ensure that general aviation users will be full and willing participants in the modernized NAS.

[1] Commissioner Coleman takes no position with respect to the first two sentences of recommendation 2.5 as he feels this is among the issues NCARC is to resolve.

2.6. The FAA should identify and justify by July 1997 the frequency spectrum necessary for the transition to a modernized air traffic control system.

Expansion of telecommunications and other industries is creating greater competition for frequency spectrum. The FAA has indicated a need to retain large segments of its current spectrum allocation, but has provided insufficient justification for doing so. To ensure that the FAA's spectrum needs during modernization are not compromised the Commission recommends that the FAA complete a full justification, as well as a plan for freeing up spectrum as older systems are modernized or decommissioned. This process must be completed not later than July, 1997, and the results included by the DOT in the Federal Radio Navigation Plan and the RTCA 185 Report: Aeronautical Spectrum Planning for the Years 1997–2010.

CHAPTER THREE: IMPROVING SECURITY FOR TRAVELERS

> "We know we can't make the world risk-free, but we can reduce the risks we face and we have to take the fight to the terrorists. If we have the will, we can find the means."
>
> —President Clinton

The Federal Bureau of Investigation, the Central Intelligence Agency, and other intelligence sources have been warning that the threat of terrorism is changing in two important ways. First, it is no longer just an overseas threat from foreign terrorists. People and places in the United States have joined the list of targets, and Americans have joined the ranks of terrorists. The bombings of the World Trade Center in New York and the Federal Building in Oklahoma City are clear examples of the shift, as is the conviction of Ramzi Yousef for attempting to bomb twelve American airliners out of the sky over the Pacific Ocean. The second change is that in addition to well-known, established terrorist groups, it is becoming more common to find terrorists working alone or in ad-hoc groups, some of whom are not afraid to die in carrying out their designs.

Although the threat of terrorism is increasing, the danger of an individual becoming a victim of a terrorist attack—let alone an aircraft bombing—will doubtless remain very small. But terrorism isn't merely a matter of statistics. We fear a plane crash far more than we fear something like a car accident. One might survive a car accident, but there's no chance in a plane at 30,000 feet. This fear is one of the reasons that terrorists see airplanes as attractive targets. And, they know that airlines are often seen as national symbols.

When terrorists attack an American airliner, they are attacking the United States. They have so little respect for our values—so little regard for human life or the principles of justice that are the foundation of American society—that they would destroy innocent children and devoted mothers and fathers completely at random. This cannot be tolerated, or allowed to intimidate free societies. There must be a concerted national will to fight terrorism. There must be a willingness to apply sustained economic, political and commercial pressure on countries sponsoring terrorists. There must be an unwavering commitment to pursuing terrorists and bringing

them to justice. There must be the resolve to punish those who would violate sanctions imposed against terrorist states.

Today's aviation security is based in part on the defenses erected in the 1970s against hijackers and on recommendations made by the Commission on Aviation Security and Terrorism, which was formed in the wake of the bombing of Pan Am 103 over Lockerbie, Scotland. Improvements in aviation security have been complicated because government and industry often found themselves at odds, unable to resolve disputes over financing, effectiveness, technology, and potential impacts on operations and passengers.

Americans should not have to choose between enhanced security and efficient and affordable air travel. Both goals are achievable if the federal government, airlines, airports, aviation employees, local law enforcement agencies, and passengers work together to achieve them. Accordingly, the Commission recommends a new partnership that will marshal resources more effectively, and focus all parties on achieving the ultimate goal: enhancing the security of air travel for Americans.

The Commission considered the question of whether or not the FAA is the appropriate government agency to have the primary responsibility for regulating aviation security. The Commission believes that, because of its extensive interactions with airlines and airports, the FAA is the appropriate agency, with the following qualifications: first, that the FAA must improve the way it carries out its mission; and second, that the roles of intelligence and law enforcement agencies in supporting the FAA must be more clearly defined and coordinated. The Commission's recommendations address those conditions.

The terrorist threat is changing and growing. Therefore, it is important to improve security not just against familiar threats, such as explosives in checked baggage, but also to explore means of assessing and countering emerging threats, such as the use of biological or chemical agents, or the use of missiles. While these do not present significant threats at present, it would be short-sighted not to plan for their possible use and take prudent steps to counter them.

The Commission believes that aviation security should be a system of systems, layered, integrated, and working together to produce the highest possible levels of protection. Each of the Commission's recommendations should be looked upon as a part of a whole, and not in isolation. It should be noted that a number of the Commission's recommendations outlined in the previous chapter, particularly those relating to certification and regulation, apply to the FAA's security programs, as well.

RECOMMENDATIONS

3.1. The federal government should consider aviation security as a national security issue, and provide substantial funding for capital improvements.

The Commission believes that terrorist attacks on civil aviation are directed at the United States, and that there should be an ongoing federal commitment to reducing the threats that they pose. In its initial report, the Commission called for approximately $160 million in federal funds for capital costs associated with improving

security, and Congress agreed. As part of its ongoing commitment, the federal government should devote significant resources, of approximately $100 million annually, to meet capital requirements identified by airport consortia and the FAA. The Commission recognizes that more is needed. The Commission expects the National Civil Aviation Review Commission to consider a variety of options for additional user fees that could be used to pay for security measures including, among others, an aviation user security surcharge, the imposition of local security fees, tax incentives and other means.

3.2. The FAA should establish federally mandated standards for security enhancements.

These enhancements should include standards for use of Explosive Detection System (EDS) machines, training programs for security personnel, use of automated bag match technology, development of profiling programs (manual and automated), and deployment of explosive detection canine teams.

3.3. The Postal Service should advise customers that all packages weighing over 16 ounces will be subject to examination for explosives and other threat objects in order to move by air.

The Postal Service now requires that packages weighing over 16 ounces must be brought to a post office, rather than be placed in a mailbox. To improve security further, the Postal Service should mandate that all mail weighing over 16 ounces contain a written release that allows it to be examined by explosive detection systems in order to be shipped by air. The Postal Service should develop and implement procedures to randomly screen such packages for explosives and other threat objects. If necessary, the Postal Service should seek appropriate legislation to accomplish this.

3.4. Current law should be amended to clarify the U.S. Customs Service's authority to search outbound international mail.

Currently, the Customs Service searches for explosives and other threat objects on inbound mail and cargo. This recommended legislative enhancement parallels the Customs Service's existing border search authority.

3.5. The FAA should implement a comprehensive plan to address the threat of explosives and other threat objects in cargo and work with industry to develop new initiatives in this area.

The FAA should place greater emphasis on the work of teams, such as the Aviation Security Advisory Committee and the Baseline Cargo Working Group, to address cargo issues. The Commission believes that the FAA should implement the Baseline Group's recommendation with regard to profiling by "known" and "unknown" shippers. In addition, unaccompanied express shipments on commercial passenger aircraft should be subject to examination by explosives detection systems; the FAA should work with industry to develop a computer assisted cargo profiling system that can be integrated into airlines' and forwarders' reservation and operating systems; requirements should be implemented requiring that trucks delivering cargo for loading on planes be sealed and locked; the FAA should develop and distribute air cargo security training materials; and enhanced forwarder and shipper employee screening procedures should be developed.

3.6. The FAA should establish a security system that will provide a high level of protection for all aviation information systems.

In addition to improving the physical security of the traveling public, information systems critical to aircraft, air traffic control and airports should also be protected. Although government is responsible for a great number of aviation related information systems, a partnership must be formed in order to create integrated protection among these and related private sector systems. Some protective measures will become the responsibility of airlines, some that of the airports and others of the aircraft and air traffic control systems manufacturers and maintenance providers. The National Security Agency must play a role in coordinating information security measures, setting standards and providing oversight of system security to ensure protection against outside interference, disruption and corruption. Specific legislation should be reviewed that makes willful interference with information systems a federal crime with substantial penalties to provide a clear deterrent.

3.7. The FAA should work with airlines and airport consortia to ensure that all passengers are positively identified and subjected to security procedures before they board aircraft.

Curb-side check-in, electronic ticketing, advance boarding passes, and other initiatives are affecting the way passengers enter the air transportation system. As improved security procedures are put into place, it is essential that all passengers be accounted for in that system, properly identified and subject to the same level of scrutiny. The Commission urges the FAA to work with airlines and airport consortia to ensure that necessary changes are made to accomplish that goal.

3.8. Submit a proposed resolution, through the U.S. Representative, that the International Civil Aviation Organization begin a program to verify and improve compliance with international security standards.

Although 185 nations have ratified the International Civil Aviation Organization convention, and the security standards contained in it, compliance is not uniform. This creates the potential for security vulnerabilities on connecting flights throughout the world. To help raise levels of security throughout the world, the International Civil Aviation Organization needs greater authority to determine whether nations are in compliance. Strong U.S. sponsorship for adding verification and compliance capabilities to the International Civil Aviation Organization could lead to enhanced worldwide aviation security.

3.9. Assess the possible use of chemical and biological weapons as tools of terrorism.

FAA should work with the Department of Defense and the Department of Energy on programs to anticipate and plan for changing threats, such as chemical and biological agents.

3.10. The FAA should work with industry to develop a national program to increase the professionalism of the aviation security workforce, including screening personnel.The Commission believes it's critical to ensure that those charged with providing security for over 500 million passengers a year in the United States are the best qualified and trained in the industry. One proposal that could accomplish this goal is the creation of a nationwide non-profit secu-

rity corporation, funded by the airlines, to handle airport security. This concept, under consideration by the major airlines, merits further review.

The Commission recommends that the FAA work with the private sector and other federal agencies to promote the professionalism of security personnel through a program that could include: licensing and performance standards that reflect best practices; adequate, common and recurrent training that considers human factors; emphasis on reducing turnover rates; rewards for performance; opportunities for advancement; a national rank and grade structure to permit employees to find opportunities in other areas; regional and national competitions to identify highly skilled teams; and, an agreement among users to hire based on performance, not just cost.

3.11 Access to airport controlled areas must be secured and the physical security of aircraft must be ensured.

Air carriers and airport authorities, working with FAA, must develop comprehensive and effective means by which to secure aircraft and other controlled areas from unauthorized access and intrusion. Use of radio frequency transponders to track the location of people and objects in airport controlled areas, including aircraft, offers significant advantages over the current security measures commonly used today. Where adequate airport controlled area and aircraft security are not assured by other means, this technology should be considered for use at both international and domestic airports.

The Following Recommendations Were Presented to President Clinton on September 9, 1996

3.12. Establish consortia at all commercial airports to implement enhancements to aviation safety and security.

Recommendation from Initial Report dated September 9, 1996

Establish consortia at all commercial airports to implement enhancements to aviation safety and security. The Commission is convinced that safety, security, efficiency, and affordability can go hand in hand if all parties work as partners. The FAA should direct its officials responsible for oversight of security procedures at the nation's 450 commercial airports to convene relevant aviation and law enforcement entities for the purpose of implementing the Commission's recommendations and further improving aviation safety and security. At each airport, these partners will: (1) immediately conduct a vulnerability assessment; and (2) based on that assessment, develop an action plan that includes the deployment of new technology and processes to enhance aviation safety and security.

The FAA will approve these action plans on an expedited basis; procure and allocate, based on availability, new equipment; and test airports to ensure that the plans are being implemented properly.

Status

Forty-one major airport consortia have submitted action plans for FAA review.

The Commission's most important recommendation in its initial report was that local consortia be convened to identify vulnerabilities and propose action plans. The Federal Aviation Administration (FAA) called for initial consortia meetings by September 27, 1996, at 41 major U.S. airports where FAA personnel are permanently deployed. By December 2, 1996, all consortia action plans or reports from these airports had been presented to the FAA for review. The consortia action plans defined local security threat conditions based on input from FAA and the Federal Bureau of Investigation. Consortia also assessed other areas such as personnel training, passenger screening, access control measures, and equipment and technology needs.

Augmenting Recommendation

The FAA should formalize the establishment of consortia at all Category X through Category III airports by September 30, 1997, and, after consultation with industry, issue guidance on the future of consortia.

3.13. Conduct airport vulnerability assessments and develop action plans.

Recommendation from Initial Report dated September 9, 1996

Conduct airport vulnerability assessments and develop action plans.

Using models already developed by Sandia National Laboratory, periodic vulnerability assessments of the nation's commercial airports should be conducted. Based on the results, action plans tailored to each airport will be developed for expedited approval by the FAA.

Status

Law enforcement agencies are conducting assessments and addressing problems.

The FAA Authorization Act of 1996 required the FAA and FBI to conduct joint threat and vulnerability assessments on security every three years, or more frequently if necessary, at each airport determined to be high risk.

In November 1996, officials from the FBI, FAA and Department of Transportation (DOT) established a working group to define "high risk" airports. Discussions have been held on the criteria to be used to identify an airport facility as high risk, methodology to use in conducting joint FAA/FBI vulnerability assessments, and which airports should be assessed on a priority basis. The target date for completing the procedures for conducting vulnerability assessments is April 30, 1997, and initial assessments are to begin by late June, 1997.

3.14. Require criminal background checks and FBI fingerprint checks for all screeners, and all airport and airline employees with access to secure areas.

Recommendation from Initial Report dated September 9, 1996

Require criminal background checks and FBI fingerprint checks for all screeners, and all airport and airline employees with access to secure areas.

Currently, employees, including those with unescorted access to secure areas of airports, are not subject to such review. Given the risks associated with the potential introduction of explosives into these areas, the Commission recommends that screeners and employees with access to secure areas be subject to criminal background checks and FBI fingerprint checks.

Status

The FBI has reduced fingerprint check turnaround time to at most seven days.

The FBI has expedited the processing of aviation related fingerprint submissions. The FBI will accelerate its efforts to make software modifications and purchase additional computer hardware to adapt its Electronic Fingerprinting Image Print Server (EFIPS) system to accept civil fingerprint cards.

Augmenting Recommendation

The Commission reiterates that the overall goal is FBI fingerprint checks of all airport and airline employees with access to secure areas, no later than mid-1999.

3.15 Deploy existing technology.

Recommendation from Initial Report dated September 9, 1996

Deploy existing technology. The Commission has reviewed numerous machines designed to detect explosives in cargo, checked baggage, carry-on bags, and on passengers. There is no silver bullet. No single machine offers a solution to the challenges we face. Each machine has its own advantages and its own limitations. Even machines that work fairly well in the laboratory need to be tested in actual use at busy airports. We recognize that the FAA has certified only one technology for baggage screening, but we believe we must get a variety of machines, including some in use in other countries, into the field. There day-to-day operators can figure out which equipment works best in what situations and combinations, and what features need to be improved. Finding the strengths and weakness of existing technology will spur industry's creativity, leading to the invention of better and better instruments. Ultimately, the goal should be to deploy equipment that can be certified by the FAA to detect explosives likely to be used by terrorists.

The Commission recommends the government purchase significant numbers of computed tomography detection systems, upgraded x-rays, and other innovative systems. By deploying equipment widely, passengers throughout the aviation system will receive the benefits of the enhancements. The Commission strongly believes it would be improper to discuss the details of such deployment, as to do so would serve only to compromise the integrity of an enhanced security system.

The Commission recommends that this initial equipment purchase be paid for with appropriated funds. This recommendation does not settle the issue of how security costs will be financed in the long run. That will be dealt with in our final report.

Status

Congress funded the purchase of commercially available advanced security screening equipment.

The FAA has ordered 54 advanced explosives detection systems.

In November and December 1996, FAA awarded six fixed priced contracts to various manufacturers of explosives trace detection technologies.

Augmenting Recommendation

The Commission recognizes that deployed technology for examining carry-on baggage may be outdated. New developments such as computerized systems with high resolution digital displays, innovative use of color to highlight threat objects, and ability to accommodate technologies such as threat image projection to maintain screener performance, can provide enhanced security. The FAA should review available technology for screening carry on items, regularly update minimum standards for new installations, and develop programs for upgrading deployed technology.

Cross Reference to Related Recommendations

This recommendation is related to recommendation 3.2.

3.16. Establish a joint government-industry research and development program.

Recommendation from Initial Report dated September 9, 1996

Establish a joint government-industry research and development program. The Commission recommends the establishment of a new joint government-industry partnership whose mission will be to accelerate research and development to enhance the security of air travel.

This could be modeled on the Partnership For A New Generation Vehicle (PNGV), in which the federal government and auto makers are combining resources to develop automobiles with significantly enhanced fuel economy, safety, and reduced emissions. We propose to increase federal funding and to ask the private sector to contribute.

Status

The FAA is working with industry to develop agreements and award research grants.

Congress increased the federal funding of R&D as required.

The FAA is moving in the direction of interacting more closely with industry, having set up advisory mechanisms such as the Aviation Security Advisory Committee; participating in individual Cooperative Research and Development Agreements with individual firms; giving grants to airlines and airports to conduct demonstrations and otherwise involve themselves in security technology development; entering into cost-sharing arrangements with firms to develop security technology.

Augmenting Recommendation

The FAA received additional funding and has aggressively accelerated systems to (1) improve screener performance, (2) reduce aircraft vulnerability, (3) screen cargo, and (4) to develop options for

dealing with threats other than explosives. The FAA is encouraged to use the best technology available to solve security and safety challenges throughout the air transportation system.

3.17. Establish an interagency task force to assess the potential use of surface-to-air missiles against commercial aircraft.

Recommendation from Initial Report dated September 9, 1996

Assess the viability of anti-missile defense systems.. Whether or not the explosion of TWA 800 turns out to have been due to a surface-to-air missile attack, as some eye-witness accounts suggest, missile attacks have downed passenger planes in other countries, and it is a risk that should be evaluated. The Commission will continue to analyze this problem in cooperation with the Department of Defense and other government agencies.

Status

DoD will convene an interagency task force to examine the threat to civil aircraft.

Initial analyses of both the missile threat and electronic systems available to counter it support a decision to take positive steps. Experts from the Department of Defense (DoD), the intelligence community, defense contractors and research scientists contributed to analysis of the viability of anti-missile defense systems for civil aviation.

Augmenting Recommendation

Within ninety days, the Department of Defense should convene an interagency task force including the DOT, the FAA and the intelligence community to address the potential threat from surface-to-air missiles against commercial aviation. Working with airport consortia, this task force should develop plans to provide increased surveillance, and, if necessary, the deployment of countermeasures. The task force should make recommendations to the DOT regarding the testing, evaluation and preparation for deployment of measures to protect civil aircraft against an increased threat from surface-to-air missiles.

Appropriate steps should be taken by the intelligence community and through international diplomacy to reduce the possibility that terrorists could obtain or use surface-to-air missiles. The State Department should study the expansion of conventional arms agreements to include man-portable surface-to-air missiles, and the U.S. Representative to the International Civil Aviation Organization (ICAO) should propose a new convention addressing these weapons.

3.18. Significantly expand the use of bomb-sniffing dogs.

Recommendation from Initial Report dated September 9, 1996

Significantly expand the use of bomb-sniffing dogs. Canines are used to detect explosives in many important areas, but only sparingly in airport security. The Commission is convinced that an increase in the number of well-trained dogs and handlers can make a significant and rapid improvement in security, and recommends the deployment of 114 additional teams.

Status

The FAA received funding for 114 new dog teams and training has begun.

Augmenting Recommendation

Additionally, the Commission recommends that ATF continue to work to develop government-wide standards for canine teams.

3.19. Complement technology with automated passenger profiling.

Recommendation from Initial Report dated September 9, 1996

Complement technology with automated passenger profiling. Profiling can leverage an investment in technology and trained people. Based on information that is already in computer databases, passengers could be separated into a very large majority who present little or no risk, and a small minority who merit additional attention.

Such systems are employed successfully by other agencies, including the Customs Service. By utilizing this process Customs is better able to focus its resources and attention. As a result, many legitimate travelers never see a customs agent anymore—and drug busts are way up.

The FAA and Northwest Airlines are developing an automated profiling system tailored to aviation security, and the Commission supports the continued development and implementation of such a system.

To improve and promote passenger profiling, the Commission recommends three steps. First, FBI, CIA, and BATF should evaluate and expand the research into known terrorists, hijackers, and bombers needed to develop the best possible profiling system. They should keep in mind that such a profile would be most useful to the airlines if it could be matched against automated passenger information which the airlines maintain.

Second, the FBI and CIA should develop a system that would allow important intelligence information on known or suspected terrorists to be used in passenger profiling without compromising the integrity of the intelligence or its sources. Similar systems have been developed to give environmental scientists access to sensitive data collected by satellites.

Third, the Commission will establish an advisory board on civil liberties questions that arise from the development and use of profiling systems.

Status

Profiling systems are being developed.

The Federal Aviation Administration (FAA) and Northwest Airlines are completing final programming changes to an automated profiling system. A tentative completion date for programming changes and implementation of Computer Assisted Passenger Screening (CAPS) on Northwest flights is April, 1997. Additional programming will begin for use of CAPS on other airline reservations systems, with a tentative completion date of August, 1997.

On January 17, 1997, a Civil Liberties Advisory Board met with Commissioners to discuss civil liberties concerns pertaining to

profiling. The Board submitted recommendations to the Commission. (Appendix A)

Augmenting Recommendation

The Commission believes that profiling is one part of a comprehensive, layered security program. As with other measures, it becomes less necessary with the introduction of efficient screening technology. Based on readily-available information, passengers could be separated into a very large majority about whom we know enough to conclude that they present little or no risk, and a small minority about whom we do not know enough and who merit additional attention. The Customs Service uses this approach successfully to better focus its resources and attention. As a result, many legitimate travelers never see a customs agent anymore—and drug busts are way up.

The Commission supports the development and implementation of manual and automated profiling systems, such as the one under development by the FAA and Northwest Airlines. The Commission strongly believes the civil liberties that are so fundamentally American should not, and need not, be compromised by a profiling system. Consistent with this viewpoint, the Commission sought the counsel of leading experts in the civil liberties field. Those experts provided a series of recommendations found in Appendix A. The Commission recommends the following safeguards:

1. No profile should contain or be based on material of a constitutionally suspect nature—e.g., race, religion, national origin of U.S. citizens. The Commission recommends that the elements of a profiling system be developed in consultation with the Department of Justice and other appropriate experts to ensure that selection is not impermissibly based on national origin, racial, ethnic, religious or gender characteristics.
2. Factors to be considered for elements of the profile should be based on measurable, verifiable data indicating that the factors chosen are reasonable predictors of risk, not stereotypes or generalizations. A relationship must be demonstrated between the factors chosen and the risk of illegal activity.
3. Passengers should be informed of airlines security procedures and of their right to avoid any search of their person or luggage by electing not to board the aircraft.
4. Searches arising from the use of an automated profiling system should be no more intrusive than search procedures that could be applied to all passengers. Procedures for searching the person or luggage of, or for questioning, a person who is selected by the automated profiling system should be premised on insuring respectful, non-stigmatizing, and efficient treatment of all passengers.
5. Neither the airlines nor the government should maintain permanent databases on selectees. Reasonable restrictions on the maintenance of records and strict limitations on the dissemination of records should be developed.
6. Periodic independent reviews of profiling procedures should be made. The Commission considered whether an independent panel be appointed to monitor implementation and recommends at a minimum that the DOJ, in consultation with the

DOT and FAA, periodically review the profiling standards and create an outside panel should that, in their judgment, be necessary.

7. The Commission reiterates that profiling should last only until Explosive Detection Systems are reliable and fully deployed.
8. The Commission urges that these elements be embodied in FAA standards that must be strictly observed.

3.20. Certify screening companies and improve screener performance.

Recommendation from Initial Report dated September 9, 1996

Certify screening companies and improve screener performance. Better selection, training, and testing of the people who work at airport x-ray machines would result in a significant boost in security. The Commission recommends development of uniform performance standards for the selection, training, certification, and recertification of screening companies and their employees. The Commission further recommends that in developing these standards, the FAA give serious consideration to implementing the National Research Council recommendations. The Commission also recommends the purchase and deployment of SPEARS, a computerized training and testing system.

Status

The FAA has begun rulemaking procedures to require new certifications.

The Federal Aviation Administration is developing an Advanced Notice of Proposed Rulemaking (ANPRM) which will establish the requirement for screening companies to be certified in order to provide screening services to air carriers. The rule will include requirements to improve the training and testing of security screeners through development of uniform performance standards for providing security screening services. Congress gave FAA authority to certify screening companies, but did not provide FAA authority to certify individual screeners. This Commission urges Congress to provide that additional authority.

Augmenting Recommendation

The Commission also recommends that the purchase and deployment of SPEARS, a computerized training and testing system, be completed at all major airports by the end of 1997.

3.21. Aggressively test existing security systems.

Recommendation from Initial Report dated September 9, 1996

Aggressively test existing security systems. "Red team" (adversary) type testing should also be increased by the FAA, and incorporated as a regular part of airport security action plans. Frequent, sophisticated attempts by these red teams to find ways to dodge security measures are an important part of finding weaknesses in the system and anticipating what sophisticated adversaries of our nation might attempt. An aggressive red team strategy will require significant increases in the number of FAA personnel currently assigned to these tasks.

Status

The FAA is hiring 300 new special agents to test airport security.

3.22. Use the Customs Service to enhance security.

Recommendation from Initial Report dated September 9, 1996

Use the Customs Service to enhance security. The Customs Service has many responsibilities that are parallel to the FAA's in dealing with airlines and contraband. As a law enforcement agency, Customs has authorities and tools not available to the FAA. Further, it has developed successful partnership programs with the airlines. By using the Customs Service to complement the FAA, FBI, and other agencies, the Commission believes that aviation security would be significantly enhanced.

The Customs Service has thousands of agents currently stationed at US international airports. Customs has statutory authority to search people and cargo to stop contraband from coming in or going out of the country. Customs has arrangements with most airlines to receive automated passenger and cargo manifests. These arrangements could be adapted for use in security procedures. Customs, as a law enforcement agency, has access to automated law enforcement databases that could be an invaluable tool in fighting not just drugs but terrorism. The Commission recommends that Customs upgrade and adapt its computer systems to take on this additional responsibility.

Status

The Customs Service is deploying 140 inspectors and investigators to critical airports.

The U.S. Customs Service is in the process of deploying 140 inspectors, intelligence analysts, and criminal investigators (special agents) to critical airports, for aviation security; anti-terrorism efforts, and to perform increased searches of passengers, baggage, and cargo departing the United States. Customs is purchasing and deploying additional x-ray vans, tool trucks and radiation detector pagers at critical airports to assist in these searches.

The Customs Service and the Federal Aviation Administration (FAA) are working with an FAA contractor to study the technical issues associated with converting Customs' Automated Targeting System (ATS), which is designed for sea cargo analysis, to air cargo analysis. Although ATS is designed for contraband analysis and detection in the sea cargo environment, the plan would be to add anti-terrorism criteria to the system and convert it to an air cargo environment. The study should be completed in the Spring of 1997.

3.23. Give properly cleared airline and airport security personnel access to the classified information they need to know.

Recommendation from Initial Report dated September 9, 1996

Give properly cleared airline and airport security personnel access to the classified information they need to know. The red tape of classification is getting in the way of security. There are two problems that must be solved. The first involves intelligence information about specific terrorist threats. The CIA or FBI pass the threat information to the FAA, which in turn alerts the airlines. But the information gets progressively "sanitized" to avoid jeopard-

izing the source. Often, airlines are just told what to do but not why they are to do it. If airlines were provided more information about the threat, they could help design more effective responses.

Corporate personnel are often cleared to know the most secret information when national security is at stake. Defense contractors with access to highly classified intelligence information are far from rare. For that matter, airline personnel were cleared to know highly classified information during Operation Desert Storm, when commercial aircraft transported 80% of our troops to Saudi Arabia.

The other classified information problem involves the airport vulnerability assessments in recommendation number 2. These assessments become classified information if they conclude that a high degree of vulnerability exists. Some people responsible for security at the airports are not cleared to receive classified information.

The Commission recommends that the FAA arrange for appropriate airline and airport security personnel to be cleared to address this problem.

Status

The FAA is arranging for adequate clearance levels at airports and airlines.

The FAA has agreed to collaborate more closely with airlines and airports in developing responses to threat information, and has agreed to disseminate vulnerability assessments to properly cleared officials.

3.24. Begin implementation of full bag-passenger match.

Recommendation from Initial Report dated September 9, 1996

Begin implementation of full bag-passenger match. Matching bags to passengers ensures that the baggage of anyone who does not board the plane is removed. Full bag match ensures that no unaccompanied bag remains on board a flight.

Manual and automated systems to conduct full bag match have been employed in international aviation for several years, but need additional work to ensure they can be phased into domestic airline operations. The Commission recommends implementing full bag match at selected airports, including at least one hub, within sixty days to determine the best means of implementing the process system-wide.

Status

The Commission remains committed to baggage match as a component of a comprehensive, layered security program aimed at keeping bombs and explosive devices off airlines. New technologies are available which facilitate positive and automated identification of the bag as it is tracked through the system. Automatic bag tracking systems can also facilitate the removal of bags from aircraft if required by security concerns. The Commission feels that these technologies can be combined with the development of a passenger manifest to implement a passenger-bag matching system as one component of a layered approach to aviation security.

The Commission urges the industry and the FAA to work together to hasten the development of sophisticated technology for determining the presence of explosives in checked baggage. Until

such machines are widely available, the Commission believes that bag match, initially based on profiling, should be implemented no later than December 31, 1997. The Commission's recommendation is consistent with that of the Baseline Working Group's recommendation in this contentious and difficult area.

By that date, the bags of those selected either at random or through the use of automated profiling must either be screened or matched to a boarded passenger. No unaccompanied bag should be transported on a passenger aircraft unless (1) it has been screened by a screening method that meets the FAA standard, or (2) it belongs to a passenger who at the time of check in was neither randomly selected for security review nor selected by the profile for further review. This approach is the most effective methodology available now. It would allow the aviation industry to remove the unaccompanied bag or bags which represent the greatest threat.

3.25. Provide more compassionate and effective assistance to families of victims.

Recommendation from Initial Report dated September 9, 1996

Providing more compassionate and effective assistance to families of victims. The tragedy of losing a loved one in an aviation disaster can be unnecessarily and cruelly compounded by disjointed or incomplete information in the aftermath of the incident. At the Commission's urging, the President is directing the National Transportation Safety Board to take the lead in coordinating provision of services to families of victims. The NTSB will work with the Departments of State, Defense, Transportation, Health and Human Services, the Federal Emergency Management Agency, and private organizations like the Red Cross.

Status

The NTSB was given responsibility to coordinate response.

On October 9, 1996, Congress passed the Aviation Family Disaster Act of 1996 giving the National Transportation Safety Board (NTSB) the responsibility for aiding families of aircraft accident victims and coordinating the federal response to major domestic aviation accidents.

Since the signing of the law, NTSB has completed the initial phase of coordinating the federal response to a major domestic aviation accident. The NTSB is in the process of finalizing existing interim Memoranda of Understanding with the Department of State, Department of Defense, Department of Health and Human Services, Department of Justice, Department of Transportation, Federal Emergency Management Agency, and the American Red Cross (ARC). The NTSB has been vigorously assisting the airline industry to develop a model plan to address the needs of aviation disaster victims and their families. Letters from Chairman Jim Hall and DOT Secretary Federico Peña went out in November, 1996, to airlines informing them of their responsibility for producing an emergency response plan as specified in section 703 of the Aviation Disaster Family Assistance Act of 1996.

An interim federal response has been developed by the NTSB that assigns responsibilities to the airlines and participating federal agencies. The ARC will be responsible for family care and

mental health; the Department of Health and Human Services (HHS) will be responsible for identification and preparation of human remains (with support by the Department of Defense, as needed); and the Department of State will assist the airlines and NTSB when foreign passengers are involved in an aviation accident. The Federal Emergency Management Agency will provide the NTSB with communications equipment and additional public affairs personnel. If the aviation disaster is officially determined to be a criminal act, the Department of Justice will provide information to families on entitlements and benefits under the Victims of Crime Act. Many elements of the interim NTSB plan were successfully implemented and tested following the United Express Flight 5925/5926 accident in Quincy, Illinois on November 19, 1996.

The Department of Transportation and the NTSB have formed a task force to provide recommendations on the issues elaborated in section 704 of the Aviation Disaster Family Assistance Act of 1996. The task force includes officials from the NTSB, Federal Emergency Management Agency, American Red Cross, airlines, family groups, and organizations considered appropriate by the Secretary of Transportation. Airlines are required by the Act to submit their plans to the Secretary of Transportation and to the Chairman of the NTSB by April 9, 1996.

Cross Reference to Related Recommendations

This recommendation is related to recommendations 4.2 and 4.3.

3.26. Improve passenger manifests.

Recommendation from Initial Report dated September 9, 1996

Improve passenger manifests. The Commission believes that Section 203 of the 1990 Aviation Security Improvement Act, which requires airlines to keep a comprehensive passenger manifest for international flights, should be implemented as quickly as possible. While Section 203 does not apply to domestic flights, the Commission urges the Department of Transportation to explore immediately the costs and effects of a similar requirement on the domestic aviation system.

Status

The DOT is proceeding with rulemaking to require international and domestic manifests.

The DOT has developed a draft rule covering domestic flight manifesting, and an Advance Notice of Proposed Rulemaking (ANPRM), should be issued in early 1997. The DOT anticipates an extensive comment period for the ANPRM, because no data exist related to domestic flights. The final rule for domestic manifesting is likely to be published in 1998.

3.27. Significantly increase the number of FBI agents assigned to counterterrorism investigations, to improve intelligence, and to crisis response.

Recommendation from Initial Report dated September 9, 1996

Significantly increase the number of FBI agents assigned to counter-terrorism investigations, to improve intelligence, and to crisis response. The Commission recognizes the vital role that the FBI

plays in fighting terrorism against Americans, and recommends that the agency's ability to assess vulnerabilities, gather and analyze intelligence, and conduct forensic investigations be augmented.

3.28 Provide anti-terrorism assistance in the form of airport security training to countries where there are airports served by airlines flying to the US.

Recommendation from Initial Report dated September 9, 1996

Provide anti-terrorism assistance in the form of airport security training to countries where there are airports served by airlines flying to the US. The Commission believes that it is important to raise the level of security at all airports serving Americans. Assisting foreign countries through training in explosive detection, post-blast investigation, VIP protection, hostage negotiation, and incident management is an important means of achieving this goal.

Status

The State Department and the FAA are sponsoring domestic and foreign courses.

The Department of State and the FAA continue to jointly sponsor Anti-Terrorism Assistance Training Programs. In FY 1997, six domestic law enforcement classes and six international/foreign classes will be held.

3.29. Resolve outstanding issues relating to explosive taggants and require their use.

Recommendation from Initial Report dated September 9, 1996

Resolve outstanding issues relating to explosive taggants and require their use. The use of taggants can be a critical aid when investigating explosions on aircraft and in bringing terrorists to justice. The Commission recommends that remaining issues relating to the use of these taggants, including the analysis of black and smokeless powder, be resolved as quickly as possible, and that requirements for the use of taggants then be put into place.

Status

Studies by the ATF have been initiated, with results expected in April, 1997.

ATF has contracted with the National Academy of Sciences/National Research Council to conduct an independent study. The International Fertilizer Development Center is under contract with ATF to conduct a study on the economic and agronomic effects of tagging ammonium nitrate fertilizer. A report is due to Congress on the study findings late in April, 1997.

3.30. Provide regular, comprehensive explosives detection training programs for foreign, federal, state, and local law enforcement, as well as FAA and airline personnel.

Recommendation from Initial Report dated September 9, 1996

Provide regular, comprehensive explosives detection training programs for foreign, federal, state, and local law enforcement, as well as FAA and airline personnel. The Commission believes that law enforcement agencies with expertise in explosives detection can provide valuable training to those involved in aviation security.

Status

The ATF and FAA are preparing a training course for airport law enforcement agencies.

The ATF is developing a curriculum on Improvised Explosive Devices. The pilot program is planned for Spring, 1997. In addition to ongoing explosives training for ATF personnel, three states and local Advanced Explosives Investigative Techniques classes are scheduled at the Federal Law Enforcement Training Center in Glynco, Georgia. Finally, post blast and improvised explosive device recognition training will be conducted by 198 ATF certified explosive specialists for State and Local law enforcement personnel throughout the United States.

3.31. Create a central clearinghouse within government to provide information on explosives crime.

Recommendation from Initial Report dated September 9, 1996

Create a central clearinghouse within government to provide information on explosives crime. The Commission recommends that a central clearinghouse be established to compile and distribute important information relating to previously encountered explosive devices, both foreign and domestic.

Status

The Secretary of the Treasury has established a national repository at the ATF.

The Secretary of the Treasury was authorized to establish a national repository of information on incidents involving arson and the suspected criminal misuse of explosives. All Federal agencies having information concerning such incidents report the information to the Secretary. The ATF National Repository committee, has established a target date of October 1, 1997, for the implementation of the pilot project, with full implementation by the end of FY 1998. The system will be designed and constructed in incremental stages providing varying levels of service as early as April, 1997.

CHAPTER FOUR: RESPONDING TO AVIATION DISASTERS

> "I am testifying today to give a sense of purpose to the death of my daughter and the others who lost their lives on TWA flight 800. I believe that by identifying areas in need of improvement, we can successfully generate a change in policy and action for the future. We will create a living memorial to their death."
>
> —Aurlie Becker.

The Commission's recommendations included setting a goal of reducing the rate of fatal accidents by a factor of five over the next ten years, and outlined a course of action that would help achieve that goal. Additionally, the Commission has recommended specific steps to reduce the threat of terrorism against commercial aircraft. However, it must be recognized that, in spite of the strongest efforts of all involved, disasters may still occur. While government and industry must do everything possible to prevent them, they must also be prepared to respond quickly and compassionately when one does take place. The tragedy of losing a loved one in a

plane crash can be cruelly and needlessly compounded by an uncoordinated, ineffective, or uninformed response to family members.

The infrequency of commercial aviation accidents has complicated the response to such disasters. For example, when TWA Flight 800 crashed on July 17, 1996, it had been over twenty years since that airline's last fatal accident. Most crashes simply overwhelm state and local response teams, and take a tremendous toll on airline employees, who must immediately begin addressing the concerns of family members at the same time that they are coping with the loss of their own colleagues.

Responding to the frustrations and complaints of family members over the treatment they received after accidents, President Clinton signed an executive memorandum giving the National Transportation Safety Board (NTSB) the responsibility for coordinating federal services to families after aviation disasters. Congress subsequently passed legislation further expanding and clarifying the NTSB's new responsibilities.

Since its creation in 1967, the NTSB is the one entity that has been on the site of every transportation disaster. The Commission applauds the designation of the NTSB as the coordinating agency after aviation disasters, and commends the agency for its diligence in carrying out its new responsibilities.

RECOMMENDATIONS

4.1. The National Transportation Safety Board (NTSB) should finalize by April, 1997, its coordinated federal response plan to aviation disasters, and Congress should provide the NTSB with increased funding to address its new responsibilities.

The NTSB has developed an interim plan for a coordinated federal response to aviation disasters, which should be finalized as quickly as possible. That interim plan was put to the test in two recent disasters involving commuter aircraft, and resulted in clear improvements in service. The Commission commends the work of the NTSB and believes that only through a coordinated effort, and establishment of a standard protocol, can effective support be provided to local governments and airlines to meet the needs of family members. The Commission recommends that Congress provide such additional funds necessary to allow the NTSB to carry out the new responsibilities described in the Aviation Disaster Family Assistance Act of 1996.

4.2. The Department of Transportation should coordinate the development of plans for responding to aviation disasters involving civilians on government aircraft.

The families of civilians killed while traveling on government aircraft face the same traumas and challenges as those whose loved ones were killed on commercial flights. However, the response to such disasters is covered under different laws and procedures. Those differences, and a clear statement regarding their rights and benefits in the event of an aviation disaster, should be provided to passengers on government aircraft prior to boarding. The Commission believes that it is essential that those families receive assistance comparable to that provided after commercial disasters through the enhanced role of the NTSB. The Commission urges the DOT to work with the NTSB, DoD, other agencies, and family

members to develop plans to accomplish that goal by September 1997 and to evaluate the need to revise existing laws and regulations governing the rights and benefits of civilians on government aircraft.

4.3. The Department of Transportation and the NTSB should implement key provisions of the Aviation Disaster Family Assistance Act of 1996 by March 31, 1997.

This Act authorized the formation of a task force to study the need for modifications to laws or regulations that would result in improvements to the treatment of family members of victims of aviation disasters. This task force will consider, among other things, issues relating to treatment of families by the media and legal community. Additionally, the Commission urges the task force to consider the development of uniform guidelines for notification, autopsies and DNA testing and other issues raised by family members, including rights and treatment of foreign citizens and non-traditional families, securing crash sites, availability of cockpit voice recorder transcripts, and the composition of accident investigation teams. The Commission expects that establishment of the task force will be one of the first priorities for the new Secretary of Transportation, and that it will be accomplished without delay.

In November 1996, the Chairman of the NTSB and the Secretary of Transportation (DOT) sent a joint letter to airlines to underscore the importance of this Act and to advise on the responsibilities of airlines to formulate disaster response plans. Those plans are due to the DOT and the NTSB by early April 1997.

In addition, the NTSB should work with the State Department through Memoranda of Understanding or other mechanisms to provide direct services to the families of U.S. citizens who are victims of disasters on U.S. carriers abroad.

4.4. The United States Government should ensure that family members of victims of international aviation disasters receive just compensation and equitable treatment through the application of federal laws and international treaties.

Certain statutes and international treaties, established over 50 years ago, historically have not provided equitable treatment for families of passengers involved in international aviation disasters. Specifically, the Death on the High Seas Act of 1920 (Act) and the Warsaw Convention of 1929 (Convention), although designed to aid families of victims of maritime and aviation disasters, have inhibited the ability of family members of international aviation disasters from obtaining fair compensation. A recent agreement by U.S. airlines waived the liability of the Warsaw Convention. However, the Death on the High Seas Act still limits recoveries available after certain aviation disasters.

Congress passed the Justice for Victims of Terrorism Act of 1996 as a first step to remedy this situation. The Commission urges the Administration and the Congress to take additional steps necessary to ensure fairer and more equitable treatment of families of victims of international aviation disasters, including the establishment of an advisory board, pursuant to section 211 of the Aviation Security Improvement Act of 1990, to develop a plan for equitable compensation of victims of aviation disasters.

4.5 Provisions should be made to ensure the availability of funding for extraordinary costs associated with accident response.

The NTSB and other federal, state, and local government agencies can incur significant costs in the course of an accident response. Those costs cannot be anticipated nor budgeted for in advance, and their recovery has been made on an ad hoc basis, further complicating an already difficult situation. The Commission urges the Administration and Congress to address this issue, through the consideration of measures such as requirements for increased insurance coverage for companies involved in air transportation.

4.6. Federal agencies should establish peer support programs to assist rescue, investigative, law enforcement, counseling and other personnel involved in aviation disaster response.

The men and women who respond on the scene of aviation disasters can suffer from considerable trauma and emotional impact. Specially trained peer support counselors, who are themselves investigators who have had similar experiences, should be dispatched to the scene of a disaster to help those involved in the response effort. The Bureau of Alcohol, Tobacco, and Firearms (ATF), because of its frequent investigations of arson and bombings, has developed such a program for its agents. The NTSB, the FAA, and other agencies should work with the ATF to develop programs for their personnel within existing budgets.

CONCLUSIONS

The Commission believes that each of its recommendations is achievable. But, the Commission has no authority to implement its recommendations. That responsibility lies with government and industry. Many of the proposals will require additional funding. Some of them will require legislation. Each of them requires sustained attention. We now urge the President to make these recommendations his own. We urge Congress to provide the necessary legislation and funding. We urge the incoming leadership of the DOT and the FAA to make fulfillment of these recommendations a cornerstone of their work. We urge the commercial aviation industry to take up the technical and organizational challenges. We urge the thousands of private pilots across the nation to convert their enthusiasm for flying into a commitment make the changes necessary to enhance safety for everyone flying. And, we urge the American people to demand that this country take the steps now to do what is needed.

By virtually any measure, the aviation system in the United States is the best in the world. But, every system can be improved; made safer, more secure, and more efficient. Every crash is a stark reminder of that reality.

The world is changing, and so, too, must our aviation policies and practices. They should challenge everyone involved in aviation to improve. They should serve as the model for the rest of the world, and lead to improvements that will make passengers safer, regardless of where they board their flight.

There are few areas in which the public so uniformly believes that government should play a strong role as in aviation safety and security. Aviation is an area over which the average person can

exert little control; therefore, it becomes government's responsibility to work with industry to make sure that Americans enjoy the highest levels of safety and security when flying. Problems in these areas contribute to an erosion of public faith in aviation, and in government itself. The Commission has laid out an aggressive agenda to help address those concerns, and believes that the implementation of this course of action must be the top priority for all those involved in aviation.

The Commission expresses its appreciation to: President Clinton, for his heartfelt interest and his strong support for this work; to the 104th Congress, for its decisive action in response to the initial report; to the men and women in numerous government agencies, for their work in identifying issues and in implementing recommendations; and to the representatives of airlines, airports, labor, and general aviation who provided invaluable input.

Finally, and especially, the Commission thanks the families of those who have lost loved ones in crashes, for their commitment and their insights, and for ensuring that the Commission always kept its focus on the ultimate goals.

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APPENDIX D: EXECUTIVE ORDER 13015 OF AUGUST 22, 1996

WHITE HOUSE COMMISSION ON AVIATION SAFETY AND SECURITY

By the authority vested in me as President by the constitution and the laws of the United States, including section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. Establishment. There is established the White House Commission on Aviation Safety and Security (the "Commission"). The Commission shall be of not more than 25 members, to be appointed by the President from the public and private sectors, each of whom shall have experience or expertise in some aspect of safety or security. The Vice President shall serve as Chair of the Commission.

Section 2. Functions.

(a) The Commission shall advise the President on matters involving aviation safety and security, including air traffic control.

(b) The Commission shall develop and recommend to the President a strategy designed to improve aviation safety and security, both domestically and internationally.

(c) The Chair may, from time to time, invite experts to submit information to the Commission; hold hearings on relevant issues; and form committees and teams to assist the Commission in accomplishing its objectives and duties, which may include individuals other than members of the Commission.

Sec. 3. Administration.

(a) The heads of executive departments and agencies shall, to the extent permitted by law, provide the Commission such information with respect to aviation safety and security as the Commission requires to fulfill its functions.

(b) The Commission shall be supported, both administratively and financially, by the Department of Transportation

and such other sources (including other Federal agencies) as may lawfully contribute to Commission activities.

Sec. 4. General.

(a) I have determined that the Commission shall be established in compliance with the Federal Advisory Committee Act, as amended (5.U.S.C. App.2). Notwithstanding any other Executive Order, the functions of the President under the Federal Advisory Committee Act, as amended, shall be performed by the Secretary of Transportation in accordance with the guidelines and procedures established by the Administrator of General Services, except that of reporting to the Congress.

(b) The Commission shall exist for a period of 6 months from the date of this order, unless extended by the President.

William Jefferson Clinton
The White House, August 22, 1996

(FR Doc. 96–21996)

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APPENDIX I: COMMISSIONER CUMMOCK DISSENT LETTER

February 19, 1997
Vice President Albert Gore, Chairman
White House Commission on Aviation Safety and Security
18th and F Streets, N.W.
Washington, D.C. 20405

Re: Dissent with the Final Report of the White House Commission on Aviation Safety and Security

Dear Mr. Vice President:

It is after much thoughtful consideration and with a very heavy heart that I register my dissent with the final report of the White House Commission on Aviation Safety and Security. Sadly, the overall emphasis of the recommendations reflects a clear commitment to the enhancement of aviation at the expense of the Commission's mandate of enhancing aviation safety and security. Clearly, as a nation we have the capability to do all three, but sadly as a Commission have not had the moral courage nor will to do so.

History has proven the aviation industry's lack of sincerity and willingness to address safety and security on behalf of their customers by continually citing misleading safety statistics as their rationale for inaction. Valid statistics compare apples to apples, yet repeatedly we are inundated with apple to orange comparisons by the industry.

Specifically, we must compare injuries and deaths of PASSENGERS ABOARD MASS TRANSPORTATION, not invalid comparisons to automotive injuries and deaths. Even more far fetched was the comparison made to the Commission by Charles Higgins, a Boeing VP citing aviation safety statistics versus household related injuries and death. Yes living is risky, but clearly flying is riskier than traveling on a bus or a train. Last year alone hundreds of passengers died aboard scheduled flights, a far cry from the number of passenger deaths onboard public busses or trains.

Detailed below are specific objections to the various passengers and/or air disaster victims issues pertaining to aviation safety and security. Most were raised by family members of the victims of numerous air disasters, ranging from TWA 800, Valujet 592, Sec. Ron Brown's plane, KAL007 and Pan Am 103. Some previous recommendations were omitted entirely, others were included but reduced to a nebulous inactionable mention, while a large number contained language that was either unnecessarily misleading or non-specific in order to give the perception of recommended change.

These are the standards that I have applied in evaluating the Commissions' recommendations:

(a) Specificity (b) Responsibility (c) Substance (d) Accountability (e) Applicability (f) Timetables/Deadline

I. IMPROVING AVIATION SAFETY

1.14 "The commission commends the joint government-industry initiative to equip the cargo holds of all passenger aircraft with smoke detectors, and urges expeditious implementation of the rules and other steps necessary to achieve the goal of both detection and suppression in all cargo holds."

1.14 Is a statement not a recommendation since it lacks: (a) Specificity (c) Substance (d) Accountability (f) Timetable-Deadline

—Require the immediate installation of smoke detectors and fire suppressants in all passenger planes' cargo holds.

Rationale: There are approximately 2,900 airplanes without smoker detectors and fire suppressants that regularly fly passengers with hazardous materials and dangerous cargo in the class D cargo holds. The current partial, voluntary deployment of smoke detectors is limited to a handful of airlines, with no time table for completion of installation. Installation of FAA certified fire suppression systems (currently in use on class C cargo holds, new 777 and other planes) must also be mandated. Both systems must be mandated immediately since each are essential for survivability of passengers; detectors warn the cockpit of a problem, while suppressants buys time to land the plane. Estimated cost 30 cents per ticketed passenger.

—Mandate installation of passenger protective breathing apparatus effective against smoke, toxic fumes and oxygen deprivation.

Rationale: Existing breathing apparatus technology is over 20 yr. old and limited only to oxygen deprivation, but does not protect passengers from smoke or toxic fumes in the cabin. Enhanced breathing apparatus technology is available and FAA certified. The FAA certified technology is on military planes, used by crews on passenger planes, used on Air Force One and Two and numerous corporate/ private planes. Commercial passenger planes should provide equal standard of protection for passengers by providing FAA certified protective breathing apparatus currently used by crews. Estimated cost 4 cents per ticketed passenger.

—Ship hazardous materials and dangerous cargo on "cargo carriers" until smoke detector, fire suppressant and protective breathing apparatus technology are installed on "passenger carriers" for passenger use.

Rationale: Until passengers can adequately be protected and increase their survivability from smoke and toxic fumes in the cabin,

remove all unnecessary dangerous cargo and hazards materials from passenger carriers.

1.13 "The FAA should eliminate the exemptions in the Federal Aviation Regulations that allow passengers under the age of two to travel without the benefit of FAA approved restraints."

1.13 Recommendation lacks: (a) Specificity (f) Timetable/deadline

—Require immediate use of FAA certified babyseats for all children under two yrs.

1.5 "Cost alone should not become dispositive in deciding aviation safety and security rulemaking issues."

1.5 Recommendation lacks: (a) Specificity (b) Responsibility (c) Substance (d) Accountability (f) timetable/Deadline

—Waive FAA/DOT cost/benefit requirement criteria in deciding safety and security rulemaking issues.

—Eliminate FAA's authority to issue private or secret exceptions/waivers to safety and security rules, except in very limited and controlled circumstances..

Rationale: Airlines and airports regularly obtain indefinite waivers to safety and/or security rules without knowledge or oversight creating an ineffective regulatory system. Require exceptions or waivers to include a statement of necessity, signed by the air carriers' president, the Assoc. Administrator of FAA for Rulemaking, and reviewed by the FAA Administrator and Chairman of the relevant advisory committee. Any approved waivers or exceptions shall be sent to all members of the FAA's Advisory Committee on Rulemaking (ARAC) and the chairmen of the Senate and House Aviation Subcommittees.

—Limit safety/security exceptions/waivers to no more than 6 months.

Rationale: The use of indefinite waivers or private exceptions to air safety and security regulations must be limited in time to temporary emergency situations. The current indefinite secret waiver system compromises safety and security, and provides certain carriers with unfair competitive advantages over other carriers that are in compliance with a safety or security regulations. Furthermore, such a system amounts to fraud on the public who is led to believe that safety and security standards and regulations are being complied with and enforced. Time limits of 6 months or less will ensure that remedial actions are undertaken promptly by out of compliance carriers, rather than rewarding out of compliance carriers with indefinite waivers.

Pan Am alleged that it had received prior to the Lockerbie bombing a verbal FAA waiver of the security rule requiring hand searching of unaccompanied luggage for Pan Am European locations. Pan Am claimed this waiver allowed it merely to X-ray unaccompanied luggage. It is quite possible that the bomb which destroyed Pan Am 103 could have been discovered if a then excising FAA security regulation had been strictly followed and enforced. The criminal investigation determined that an unaccompanied bag containing a Toshiba cassette played packed with explosives destroyed the jumbo jet over Lockerbie resulting in the worst terrorist attack against U.S. civilians in history.

III. IMPROVING SECURITY FOR TRAVELERS

With the current day realities of domestic terrorism such as the bombings of the World Trade Center in New York and the Murrah Federal building in Oklahoma City, combined with the numerous successful airmail bombs sent by a variety of disgruntled criminals, the Unibomber, and the recent Egyptian letter bombs, domestically the flying public is now flying less secure than when my husband John and his fellow passengers died aboard Pan Am 103! To-date, both the FAA and Dept. of Transportation have required only minimal changes in aviation security for international flights and have maintained the status-quo for domestic flights, not only leaving aviation's back door unlocked, but wide open.

The security preamble on p.25 effectively ignores the significant measures taken unilaterally by the FAA in the mid-1985 to protect U.S. International Aviation from bombs in unaccompanied checked baggage (FAA Aircarrier Standard Security Program (ACSSP), Section XV,C,1,(a) July 7, 1985). It also ignores the joint actions, or is ignorant of, the joint actions by the U.S. Secretary of Transportation and her Canadian counterpart, the Minister of Transport, to get the International Civil Aviation Organization (ICAO) to adopt ICAO Annex 17 Security Standards to protect international aviation against bombs in 1985. This ICAO Security Standard 4.3.1 states:

"Each Contracting State shall establish measures to ensure that operators when providing service from that State do not transport the baggage of passengers who are not on board the aircraft unless the baggage separated from the passengers is subject to other security measures.

Note—This Standard has been applicable since 19 December 1987 with respect to the baggage of passengers at the point of origin and on-line transfer passengers. With respect to the baggage of other categories of passengers, the Standard became applicable on 1 April 1989."

This specific ICAO Security Standard was not only significant from the protection it provided against unaccompanied baggage but also because it has the distinction of being ratified by a majority of ICAO Contracting States in a record time of a few months. These actions sometimes take years to win adoption. These are still mandatory ICAO requirements and the U.S. is a ICAO Contracting State and thus is to comply with these procedures internationally.

These ICAO Security Standards, set in the mid to late 1980's, internationally recognized that the primary threat to civil aviation had shifted from hijacking to sabotage requiring specific security measures that both the U.S. and ICAO would undertake to protect air passengers against bombs.

This FAA ACSSP requirements stated than a U.S. airline could not carry an unaccompanied bag from a designated high-threat international airport unless the bag had been physically searched. This FAA unaccompanied bag requirement preceded the subsequent ICAO Accompanied Bag Standard by 2 years. Pan American World Airways failure to comply with this FAA security requirement resulted in the PAA–103 tragedy on December 21, 1988 and

the airline's conviction of "Willful Misconduct" in U.S. Federal Court on July 10, 1992.

Needless to say, if the public was aware of the test results of the "Red Team" aviation security forces domestically to regularly and successfully breach the so called "Aviation Security" systems, in combination with the aforementioned domestic terrorist acts and threats, they would be shocked and terrified at how much they are currently at risk.

Even of greater concern are that the recommendations in this report will do nothing more than give the flying public the perception of security. They do not provide any tangible or immediate improvement in our security measures. Once again, we will enable the tombstone mentality that is pervasive of the FAA, DOT and the U.S. airlines to continue.

This report contains no specific call to action, no commitments to address aviation security system-wide by mandating the deployment of current technology and training, with actionable timetables and budgets. As the previous commission on aviation security and terrorism noted eight years ago, "The U.S. civil aviation security system is seriously flawed and has failed to provide the proper level of protection for the traveling public. This system needs major reform. Rhetoric is no substitute for strong, effective action."

3.1 "The federal government should consider aviation security as a national security issue, and provide substantial funding for capitol improvements."

3.1 Recommendation lacks (c) Substance (d) Accountability (e) Applicability (f) Timetables/Deadlines

—Mandate the establishment of a federal passenger "User Security Surcharge"
—Sequester funds solely to be allocated for the purchase/development:
—EDS (Explosive Detection Systems) equipment grant money
—R & D grant money for EDS development for cargo, mail, carry on and checked baggage.
—Standardized Training Programs for Security Personnel
—FBI Fingerprinting/National NCIC Criminal Background Checks
—Deploy hardened baggage containers through attrition
—Interim purchase of automated bag match technology
—Development of Profiling Programs—Manual/Automated
—Fund Explosive Detection Canine Teams

The initial $160 million in federal funds provided by Congress in 1996 was woefully inadequate to address the scope of the problems in U.S. aviation security. There are 450 commercial airports that have obsolete security systems, most of which is 20 yrs. old and designed for anti-hijacking system. This technology provides basic metal detection X-ray technology with no explosive detection capabilities for carry on baggage. Outside of the limited deployment of CTX 5000 SP, this is also true for checked baggage. Additionally, this funding does not address inadequate security personnel selection/training).

Likewise, "$100 million annual recommendation by the Gore Commission . . . to meet capitol requirements identified by local airport consortia and FAA" is woefully inadequate to meet anti-sab-

otage aviation security needs. A "passenger user security surcharge" of ($4–5) would raise in excess of $2 Billion a year, swiftly and adequately funding the actual cost to upgrade aviation security to an effective level. A "passenger user surcharge," sequestered only for security is the most viable method to raise the large amount of capitol needed to adequately address the changes system wide, due to the inaccessibility/deficit of general revenue funds and/or aviation trust funds. Security related expenses should not be considered a part of the airlines cost of doing business, but a part of our National responsibility to protect our citizens. "Security" threats typically are not targeted against a specific airline but after the American Flag on the tail of passenger carriers. There must be a clear, consistent source of revenue and commitment in order to adequately protect our citizens.

Rationale: Since the bombing of Pan Am 103 there have been numerous but unsuccessful attempts at "aviation security enhancements" by the former President Bush's Commission on Aviation Security & Terrorism, Congress and two Administrations. For 8+ yr. without an adequate and consistent funding mechanism in place to implement recommendations, legislation's (i.e. "1990 Aviation Security Improvement Act") or regulations, the obsolete security status-quo has prevailed. Note: Section 107(9) "1990 Aviation Security Improvement Act"—entitled "Authorization of Appropriations." There are authorized to be appropriated from the Airport and Airway Trust Fund, . . . such sums of money necessary for the purpose of caring out the technology grant program." In 7 yr. no security funds were made available due to budget constraints in the Trust Fund.

3.3 " The Postal Service should advise customers that all packages weighing over 16 ounces will be subject to examination for explosives and other threat objects in order to move by air."

3.3 Recommendation lacks: (c) Substance (e) Applicability (f) Timetable/Deadline

—Mandate immediate examination of all packages weighing over 8 ounces or move them on "cargo" carriers.

—Required the research and development of (EDS) explosive detection systems for mail.

Rationale: Forensic scientists who investigated the bombing of Pan Am 103 estimated that the bomb used contained as little as 9.6 ounces of explosives. While I commend the Commissions' recommendation a more effective and realistic solution is required by changing the recommendation to 8 versus 16 ounces. Additionally, Section 112(b,1)of the "1990 Aviation Security Improvement Act" entitled, "Screening Mail and Cargo" stated " require for mail and cargo the same screening procedures as are required for checked baggage."

3.5 "The FAA should implement a comprehensive plan to address the threat of explosives and other threat objects in cargo and work with industry to develop new initiatives in this area."

3.5 Recommendation lacks (a) Specificity (c) Substance (d) Accountability (f) Timetables/Deadlines

—Mandate immediate examination of all cargo or move cargo on "cargo" carriers.

—Required the research and development of (EDS) explosive detection systems for cargo.

Rationale: Profiling relies on the honesty of the shipper and is not an effective security tool in itself since many shippers and freight forwarders regularly combine questionable cargo together that are manifested as "known" shipments. Currently, all express packages shipped by express mail companies are considered as "known" shipments and don not require further scrutiny. Additionally, EDS for cargo has not been developed yet ! Additionally, Section 112(b,1)of the "1990 Aviation Security Improvement Act" entitled, "Screening Mail and Cargo" stated " require for mail and cargo the same screening procedures as are required for checked baggage."

3.7 " The FAA should work with airlines and airport consortia to ensure that all passengers are positively identified and subject to security procedures before they board aircraft."

3.7 Recommendation lacks: (a) Specificity (c) Substance (e) Applicability (f) Timetable/Deadline

—Eliminate the issuance of advanced boarding passes and require that all passengers, including electronically ticketed passengers, check-in with a airline employee prior to boarding a flight until EDS is utilized systemwide.

Rationale: Current airline ticketing procedure allows passenger to be issued advanced boarding passes with seat assignments. Passengers with advance issued boarding passes can walk directly to the jet bridge entrance at the boarding gate, present the boarding pass to an airline employee, and have a cursory security and identification take place. While this procedure provides a convenience to the passenger, it takes away from airline security procedures. The FAA should implement a regulatory change requiring that all air carriers stop issuing advanced boarding passes and ticketless travel. Require all passengers including those participating in electronic ticketing to check-in at an airline counter or gate check-in desk prior to boarding, until explosive detection technology is in place for passenger carry on bags and checked baggage.

3.10 "The FAA should work with industry to develop a national program to increase the professionalism of the aviation security workforce, including screening personnel."

3.10 Recommendation lacks: (a) Specificity (b) Responsibility (c) Substance (d) Accountability (e) Applicability (f) Timetables/Deadline

Rationale: This recommendation contains a number of admirable objectives but it, like its predecessor recommendation in President Bush's Commission on Aviation Security and Terrorism lacks teeth. Following President Bush's Commission of Aviation Security and Terrorism and the follow-on Aviation Security Improvement Act in 1990, the FAA established standards for the selection and training of aviation security personnel. Those standards were, and still are, totally inadequate. There is nothing to prevent the same inadequate actions by the FAA to this recommendation. The Commission should specifically recommend that the FAA mandate 80 hours of intensive classroom/laboratory and 40 hours of On-the-Job training before performance certification for all airline security screening personnel.

3.11 "Establish consortia at all commercial airports to implement enhancements to aviation safety and security."

3.11 Recommendation lacks (b) Responsibility (d) Accountability (f) Timetables/Deadline

—Require all 450 Commercial Airports to immediately establish a local consortia to implement safety and security FAA and DOT mandates

Rationale: Only about 10% or 41 out of 450 commercial airports have established consortia. Since effective security is as good as its weakest link, a system wide approach to implement federal standards must be required. The local consortia role should be limited to executing minimal federal safety and security standards not to determining the federal standards. For example, the consortia can determine the best placement for deployment of EDS but not if, how many or when to install explosive detection systems.

3.13 "Conduct airport vulnerability assessments and develop action plans."

3.13 Recommendation lacks (a) Specificity (d) Accountability (f) Timetables/Deadline

Rationale: This recommendation does not contain criteria to ensure that follow-up actions are taken to problems identified during vulnerability assessments. The recommendation for FAA "Red Teams" test of airport security systems outlined in 3.21 should be tied to this recommendation to ensure that these assessments do not continue the incestuous process where security problems are rationalized away and no corrective actions are taken within a specified period of time. Additionally, a dis-interested third party should be contracted to work with the FAA to conduct airport and/or airline tests in order to avoid a conflict of interest.

3.14 "Require criminal background checks and FBI fingerprint checks for all screeners, and all airport and airline employees with access to secure areas . . . The Commission reiterates that the overall goal is FBI fingerprint check of all airport and airline employees with access to secure areas, no later than mid-1999"

3.14 Recommendation lacks (a) Specificity (b) Substance (f) Timetable/Deadline

—Require immediate and direct access to NCIC III for comprehensive evaluations of screeners and all individuals with unescorted access to secure areas of airports. NCIC will be used as a "trigger" for a FBI criminal record prior to granting unescorted access to secure areas. Use NCIC as an interim measure pending IAFIS for conducting fingerprint generated FBI criminal history checks by mid-1999.

Rationale: The aviation industry must be required to provide the same degree of employment security review that is currently required of employees hired by banks and security exchange companies. Double standards must be eliminated to adequately protect peoples lives equal to protecting peoples money. The" FAA Reauthorization Act of 1996" section 304 entitled "Requirement for criminal history checks" did not require security checks equal to that of the banking or securities industries. The legislation allows for ineffective "local" criminal background checks on the basis of an array of triggering criteria such as "(I) an employment investigation leaves a gap in employment of 12 months or more.."etc. The

"1990 Aviation Security Improvement Act" section 105 (2 a-c) required national criminal history checks as did the Bush Commission on Aviation Security and Terrorism. We can not expect to have any meaningful security measures implemented if the background of thousands of airport personnel is potentially questionable

3.15 "Deploy existing technology."

3.15 Recommendation lacks: (a) Specificity (c) Substance (f) Timetable/Deadlines

Rationale: This recommendation is far too nebulous and vague. It like many other recommendations contain no deadlines and is quite non-specific in addressing several needed technology additions to the U.S. aviation security system. The statement recognizing " . . . that deployed technology for examining carry-on baggage may be outdated" was a major understatement. The facts are that the technology currently in use for examining carry-on baggage is not capable of automatically detecting explosives, and in many instances is not even capable of imaging explosives compounds. I believe that an unequivocal recommendation should be made to change out all technology that is currently used to screen carry-on luggage. Moreover, I believe that on-going research that is funded by the FAA should be accelerated to complete the development and deployment of walk-through trace explosives detectors that can be used to examine passengers for explosives residues. Additionally, the deployment of 54 advanced explosive detection systems for checked bag to cover 450 commercial airports does very little to catch up with 20 yr. of technology advancements in a meaningful way to protect the flying public .

3.16 " Establish a joint government-industry research and development program."

3.16 Recommendation lacks: (c) Substance (d) Accountability(f) Timetable/Deadline

Rationale: The current $3 million FAA R&D budget is totally inadequate to research & develop technology for screening cargo, mail, checked bag, carry on bags and passengers. Adoption of a "Passenger Security Surcharge" of ($4–5) could generate substantial revenue to adequately accelerate the aviation R&D process, deploy existing technology and provide adequate security personnel training programs.

3.19 "Compliment technology with automated passenger profiling."

3.19 Recommendation lacks: (c) Substance (e) Applicability (f) Timetables/Deadlines

Rationale: I agree that profiles can be most useful as an overall part of a multi-layered security system. This recommendation has placed an over-reliance, and therefore unrealistic expectations on an early development and the widespread application of an automated profile system. The historical review of attempts to automate profiles within airline's computer system takes us back to the mid-l980's when a fledging attempt was made to do so by TWA. I believe that a realistic implementation date for a fully automated profile system that interfaces with law enforcement and intelligence agencies will take several years to accomplish. I state this mindful of the substantial amount of work that must be done by the FBI, CIA, and BATF (and others) in building terrorist data-

bases on which detailed profile elements can be built. In addition, interfacing any such data base with airline computer systems will, in itself; be a major undertaking.

Nonetheless, I recognize that a limited automated profile system such as Northwest Airlines' CAPS can be developed and implemented more quickly. While I applaud and support the effort to automate the CAPS system I doubt that the additional programming for CAPS use outside of the Northwest Airlines system can be completed by August 1997. In the interim I urge the FAA mandate the use of manual profiles to identify the small minority of passengers that may merit additional attention.

Another serious concern regarding the recommended use of profiles to trigger the use of a passenger/baggage match. This process is actually less effective than the procedures Pan Am was using (illegally) that led to the destruction of Pan Am 103 on December 21, 1988. If profiles are a necessary part of a good layered security system then full baggage/passenger match is as well. The recommendation to base passenger/baggage match on profile and random selectees is unacceptable. I believe that both security efficiency techniques, i.e., profiles and full bag/passenger match, should be equally applied throughout the U.S. aviation security system. In fact full automated baggage/passenger match procedures can be implemented immediately and provide an immediate substantive increase in our aviation security system. As noted above, this is not so for the recommended automated profile system in 3.19.

3.20 "Certify screening companies and improve screener performance."

3.20 Recommendation lacks (a) Specificity (d) Accountability (e) Applicability (f) Timetables/Deadlines

—FAA mandate 80 hours of intensive classroom/laboratory and 40 hours of On-the-Job training, before performance certification, for all airline security screening personnel.

Rationale: Currently, screeners typically receive 8 hr. of combined class room and on-the-job training. Most security screeners are minimum wage employees required to buy their uniforms and pay for parking daily. Airlines typically pay airplane cleaners more that security screeners, hence a 200–400 % employment turnover rate exists for security screeners. Security screeners are an integral part of a effective security system. Security screeners must be selected and trained adequately, paid fairly and given the appropriate technology tools to do their job

3.23 "Give properly cleared airline and airport security personnel access to the classified information they need to know."

3.23 Recommendation lacks: (a) Specificity (c) Substance

Rationale: It is my understanding that the problem of distribution of classified intelligence information extends to FAA Regional and Field facilities. Here the primary problem is no one without clearance is to see classified data (the persons needing access are FAA employees). In this instance it is a problem of a failure of the FAA to establish a requirement for their employees to see the data and to establish a means of rapid distribution of the information to its own field employees.

3.24 "Begin implementation of full bag-passenger match....the Commission believes that bag match, initially based on profiling,

should be implemented no later than December 31, 1997.....By that date, the bags of those selected either at random or through the use of automated profiling must either be screened or matched to a boarded passenger. . . ."

3.24 Recommendation lacks: (a) Specificity (b) Responsibility(c) Substance (d) Accountability (e) Applicability (f) Timetables/Deadline

Rationale: The recommendation states that " the Commission remains committed to baggage match as a component of a comprehensive, layered security program aimed at keeping bombs and explosive devices off airlines" but subsequent comments tie bag-match to profiles and random selections. I do not take issue that bag-match should be specifically applied to "profile selectees" and/or random selection of passengers as both these measures are a welcome addition to our aviation security system. I do however, adamantly object to a failure to endorse the immediate application of a full-baggage/passenger match.

The enclosed detection matrix in Figure 1 (see p.XXX) illustrates that the terrorist bomb that downed Pan Am Flight 103 on December 21, 1988 would only have been caught by either a full-baggage/passenger match or through and examination of the suitcase carrying the bomb using the new CTX–5000SP EDS. Applying a profile in this instance would not have worked because there was never a passenger ever associated with the bag containing the bomb. Since you can only profile passengers (not bags) the bag with the bomb would not have been detected.

As there are no current plans to screen all baggage using a CTX–5000SP EDS then the only reliable security counter measure (see Figure 1 detection matrix) available to serve as an alert to a Pan Am–103 type of attack is the full-bag/passenger match. Therefore the recommended application of a bag-match to a "profile selectee", i.e., a passenger, will not catch a Pan Am–103 type of attack. The second approach is to applying a bag-match was to randomly select passengers. (see Figures 2–3 p.) As no passenger was ever associated with the Pan Am–103 bomb then this part of the recommendation to apply a bag-passenger match to randomly selected passengers would also not stop a Pan Am–103 type of attack. I cannot accept this recommendation as Pan American World Airways was illegally using an originating passenger bag-match (partial passenger-bag match) procedure that resulted in the death of my husband and 269 other people. To do so would be unconscionable.

IV. RESPONDING TO AVIATION DISASTERS

4.3 " The Department of Transportation and the NTSB should implement key provisions of the Aviation Disaster Family Assistance Act of 1996 by March 31, 1997. . . . The Commission urges the task force to consider the development of uniform guidelines.."

4.3 Recommendation lacks (a) Specificity (c) Substance (e) Applicability and actionable timetable.

4.3 "Air Disaster Family Assistance Act" Title VII, section 705 of the "FAA Reauthorization Act of 1996" requires the establishment of a joint task force, including "families which have been involved in aircraft accidents."

Task force should address and develop uniform federal standards for:

—Civilians killed on government planes
—American passengers on U.S. carriers that crash internationally.
—Notification procedures of families of air disasters
—Autopsy procedures
—DNA testing
—Care and disposition of unidentified remains (i.e. knowledge and consent by next-of-kin prior to burial or disposition)
—Personal possession decontamination, return and/or disposition (i.e. knowledge and consent by next-of-kin prior to disposition)
—Media access to survivors and victims families
—Legal solicitation/Access to survivors and victims families
—Develop and distribute a "Disaster Response Information Pamphlet" to air disaster victims and their families.

Rationale: "Implementation of key provisions of the act by March 31, 1997" can only be accomplished with the input of all parties as cited by the law (including the victims families). Family representatives have not been named or included in a task force nor provided equal access to work group meetings or received underlying documents to allow them to assist in the work in progress. Additionally, representation of both the legal and media are a necessary part of the process to develop guidelines and negotiate the MOU (memoranda of understanding) between all organizations responding to air disasters.

4.4 " The U.S. Government should ensure that family members of victims of international aviation disasters receive just compensation and equitable treatment through the application of federal laws and international treaties."

4.4 Recommendation lacks: (a) Specificity (e) Applicability (f) Timetable/Deadline

4.4 Restore passenger rights whether crashes occur over land, territorial waters or over the high seas. Equality in awardable damages can be restored by amendment to 49 U.S.C. 40120.

Rationale: Currently the application of law for aircraft that crash over water (three miles or more off shore) is based on a 1920's treaty "Death on the High Seas Act," limiting liability of air carrier or manufacturer up to $2,300. Ironically, DOHSA was adopted prior to start of commercial passenger air transportation, yet it still applies to air disasters such as recently as TWA 800, Aeroperu, KAL007 and others. Since all international flights and most domestic landing approaches on our coasts are over water this unjust and inequitable system must be abolished. Airlines and manufacturers have hidden behind DOHSA indefinitely avoiding swift and adequate compensation of victims families requiring prolonged trial lasting over a decade.

—Provide the same venue (U.S. Courts jurisdiction) for U.S. citizens regardless of where their tickets were bought , changed or if they live abroad. U.S. jurisdiction can be obtained by amendment to 49 U.S.C. 40105.

Rationale: Presently, U.S. citizens are afforded U.S. court jurisdiction only if their ticket was purchased in the U.S. Over 5 million Americans live, work and travel outside the U.S. depriving them

and their families of swift and adequate damages in case of air disasters. Airlines and manufacturers have hidden behind jurisdictional issues to indefinitely avoiding swift and adequate compensation of victims families requiring prolonged international trials lasting over a decade and compensatory damages or awards paid in foreign currency.

—Require uniform certification standards and mandate adequate levels of liability insurance on all non-scheduled commercial passenger air travel (i.e. charters)

Rationale: Privatization and deregulation has created a sizable market of non scheduled air entities that regularly transport private citizens, government employees and military. Many private charters temporarily lease aircraft and crews with questionable certification, maintenance and recurrent training, putting unwitting passengers at great unnecessary risk. Mandate equal requirement levels of certification for scheduled and non-scheduled passenger flights. Note: Most personal life and travel insurance policies exclude payment of charter related claims since charters do not afford passengers the established scheduled commercial passengers air travel safety standards.

CONCLUSIONS

In summary, the final report contains no specific call to action, no commitments to address aviation safety and security systemwide by mandating the deployment of current technology and training, with actionable timetables and budgets. Later attempts to track these recommendations will result in problems with differing agency interpretations, misunderstandings, and outright opposition to implementation by individuals and/or organizations who oppose the specific recommendations.

I recommend that time limits for completion be added to all recommendations that have no deadlines and that all recommendations be re-written for specific actions by specific agencies with an accountability matrix added for follow-on actions to ensure that the recommendations are implemented. Without specifics, once again we will allow the airlines to lead and the government follow as to what is necessary to secure the flying public.

Sadly we remain, as noted eight years ago, by our predecessor commission, President Bush's Commission on Aviation Security and Terrorism which concluded that, "The U.S. civil aviation security system is seriously flawed and has failed to provide the proper level of protection for the traveling public. This system needs major reform. Rhetoric is no substitute for strong, effective action."

At best, these recommendations allow and encourage more research, more pilot programs and more analysis. Once again, it leaves in place domestically and internationally, highly limited anti-hijacking machines that provide basic metal detection X-ray technology with no explosive detection capabilities for carry on baggage. Outside of the limited deployment (54 units) of CTX 5000SP, this is also true for checked in baggage.

Until Explosive detection technology is ordered in sufficient quantities and deployed system wide, specific efficiency measures must be implemented to identify which bags out of the millions transported annually need further scrutiny. Matching bags to pas-

sengers does this. Sadly, the commissions recommendation matches bags only to "Selectees" after profiling. Partial bag match does not allow for the identification of an unaccompanied "rouge" bag since it requires a "passenger Selectee" to trigger matching passengers to their bags and further scrutiny.

The automated profiling system developed by Northwest Airlines and the FAA will rely on the ability of a skycab or a counter check in agent to successfully verify a passengers identity as the same individual the computer profiled. Currently the airlines are not required to collect complete passenger manifest data on either domestic or international flights. We have seen the short comings of incomplete fight manifest information, as evident every time a plane crashes. It often takes the airlines days to notify victims families since without complete names, the airlines don't accurately know who boarded the plane. Profiling will now rely on the incomplete passenger data to produce a "Selectee" in order to identify the bags that need further scrutiny.

While I greatly support the upgrade in training and certification of security screeners and personnel, we can not expect them to adequately perform their jobs in detecting explosives inside carry on bags with minimal training and obsolete 8–20 yr. old anti-hijacking technology designed to detect metal and not explosives. We must deploy state of the art screening technology with at least limited EDS (Explosive Detection) capabilities.

In terms of mail and cargo transported on passengers planes, the recommendations do not provide any meaningful degree of protection for the flying public nor require and fund Research & Development of EDS (Explosion Detection Systems). Based on the threat of letter bombs/packages and the systemwide vulnerability that exist in the belly of every passenger plane the recommendations do not provide either a short or long term fix.

Mr. Vice President, we are all aware that any comprehensive security system is as good as its weakest link. Criminals and terrorist will continue to identify and exploit the weakest link in our defenses. Nationally, there are over 450 commercial airports with scheduled passenger flights. It is up to the Federal government that regulates the airlines to provide national security standards, adequate funding and actionable timetables. Anything short of that does not fulfill the Commissions mandate of enhancing aviation security in a meaningful way.

The Boeing chart on p.6 projects an aviation accident a week by the year 2015 based on the projected increases in air traffic. That acknowledges 250–300 people will die onboard passenger airplanes a week; 1,000–1,200 a month or projected total deaths of 12,000–15,000 annually ! Statistically, that compares weekly commercial aviation deaths to the weekly death toll in the Vietnam War. This is totally unacceptable and an outrage ! Commercial air travel need not bear the same risk as going to war.

In closing, Mr. Vice President, I feel that the flying public should be able to put their family members aboard a plane with a great degree of confidence that they will walk off at the point of their destination and not come home in a body bag like my husband did. It is for all the aforementioned safety and security reasons that I can not sign a report that blatantly allows the American flying

public to be placed regularly at "unnecessary risk" while we as a nation have the capability, but not the will to reasonably protect them.

For the record, I take objection to the inclusion of any "Classified Annex" to the Final Report of the White House Commission on Aviation Safety and Security. If a classified annex was issued in the name of the Commissioners, it has been included without privying all the Commissioners to the contents, issues, or providing applicable background data or conclusions, with our knowledge or consent.

Sincerely,

M. Victoria Cummock

Commissioner, White House Commission on Aviation Safety and Security
Member, FAA Security Baseline Work Group
President, Families of Pan Am 103/Lockerbie
Widow of John Binning Cummock

b. Public Report of the Vice President's Task Force on Combatting Terrorism, February, 1986

PUBLIC REPORT OF THE VICE PRESIDENT'S TASK FORCE ON COMBATTING TERRORISM

FEBRUARY 1986

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Significant 1985 Terrorist Incidents Involving U.S. Citizens

February 2 **Greece**

A nightclub frequented by U.S. servicemen near Athens is bombed. Seventy-eight people are injured including 69 Americans.

April 12 **Spain**

Eighteen people are killed and 37 wounded when a bomb destroys a family restaurant in a suburb of Madrid. Seven Americans are injured.

June 14 **Greece**

TWA Flight 847 is skyjacked by Shi'ite terrorists minutes after takeoff from Athens. The ordeal lasts 17 days. The 145 passengers include 104 Americans.

A U.S. Navy diver is tortured and shot. His body is thrown out of the aircraft at Beirut Airport, Lebanon.

June 19 **El Salvador**

Four U.S. Marines and two American businessmen are gunned down at an outdoor cafe in San Salvador. A total of 13 people are murdered.

June 23 **Over the Atlantic Ocean**

An Air-India flight explodes over the Atlantic Ocean, killing everyone aboard including four Americans.

August 8 **West Germany**

A powerful car bomb explodes at the U.S. Rhein-Main Air Base near Frankfurt. The blast kills one U.S. airman and the wife of another. Fifteen other Americans are injured.

Minutes before the blast, the body of an American soldier is discovered near Wiesbaden. His identify card had been stolen. Authorities believe the I.D. was used to gain access for the bomb-laden car at Rhein-Main Air Base.

October 7 **The Mediterranean Sea, Near Egypt**

The Italian cruise ship *Achille Lauro* is hijacked by Palestinian terrorists. A 69-year-old American tourist is murdered and thrown overboard.

The four terrorists are apprehended when U.S. Navy fighters intercept the aircraft carrying them to safehaven.

November 23 **Greece**

Egyptair Flight 648 enroute to Cairo is skyjacked 20 minutes after takeoff from Athens. One U.S. Air Force civilian employee is murdered and two other Americans are seriously wounded. A total of 60 persons are killed during the rescue effort.

November 24 **West Germany**

A U.S. military shopping mall in Frankfurt is bombed, wounding 32 people including 23 Americans.

December 27 **Italy**

Rome's airport is attacked by terrorists armed with grenades and automatic rifles. Seventy-three people are wounded, 15 are killed, including 5 Americans. One of the Americans is an 11-year-old girl.

Austria

Minutes after the Rome massacre, terrorists strike the Vienna Airport. Three are killed and 41 wounded. Two of the wounded are Americans.

December 31 **Lebanon**

At the close of 1985, six American citizens continue to be held hostage.

1985 U.S. Victims of International Terrorism

23 Dead
160 Wounded

The Growing Threat of Terrorism

"We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

The basic principles of freedom, justice and concern for human life on which our nation was founded have survived major threats during the course of America's history. Today, we face a unique and pervasive challenge to these ideals in the form of terrorism, an increasingly serious threat to the United States and its friends and allies around the world.

THE NATURE OF TERRORISM

Terrorism is a phenomenon that is easier to describe than define. It is the unlawful use or threat of violence against persons or property to further political or social objectives. It is generally intended to intimidate or coerce a government, individuals or groups to modify their behavior or policies.

The terrorist's methods may include hostage-taking, aircraft piracy or sabotage, assassination, threats, hoaxes, indiscriminate bombings or shootings. Yet, most victims of terrorism seldom have a role in either causing or affecting the terrorist's grievances.

Some experts see terrorism as the lower end of the warfare spectrum, a form of low-intensity, unconventional aggression. Others, however, believe that referring to it as war rather than criminal activity lends dignity to terrorists and places their acts in the context of accepted international behavior.

While neither the United States nor the United Nations has adopted official definitions of terrorism, Americans readily recognize the bombing of an embassy, political hostage-taking and most hijackings of an aircraft as terrorist acts. They realize that terrorism needs an audience; that it is propaganda designed to shock and stun them; that it is behavior that is uncivilized and lacks respect for human life. They also believe that terrorism constitutes a growing danger to our system, beliefs and policies worldwide.

PROFILE OF A TERRORIST

The motivations of those who engage in terrorism are many and varied, with activities spanning industrial societies to underdeveloped regions. Fully 60 percent of the Third World population is under 20 years of age; half are 15 years or less. These population pressures create a volatile mixture of youthful aspirations that when coupled with economic and political frustrations help form a large pool of potential terrorists. Many terrorists have a deep belief in the justice of their cause. They are tough and vicious and may have little regard for their own lives or those of their victims in attempting to achieve their goals. Others may even be hired assassins.

Terrorists generally get their weapons from a largely unregulated international arms market but also resort at times to illegal methods. They acquire timely information on targets and countermeasures. Lately, they have resorted to unprecedented violent attacks and, when government security efforts against them become more effective, they simply shift to easier targets.

While there are several ways to categorize terrorists, for purposes of this report three main categories are used: self-supported, state-sponsored or aided, and those individuals who may engage in terrorism for limited tactical purposes.

Self-supported terrorists primarily rely on their own initiatives, such as extortion, kidnapping, bank robberies and narcotics trafficking to support their activities.

Terrorists lacking state sponsorship, aid or safehaven tend to be extremely security conscious, keeping their numbers small to avoid penetration efforts.

State-sponsored or aided terrorist groups frequently are larger in numbers, have the advantage of protection by state agencies and are able to access state intelligence resources. Because of this host country-provided safehaven and the compartmented operations of terrorist organizations, it is extremely difficult to penetrate such groups. Moreover, they are subject to limited control by their sponsors and may be expected to carry out attacks for them.

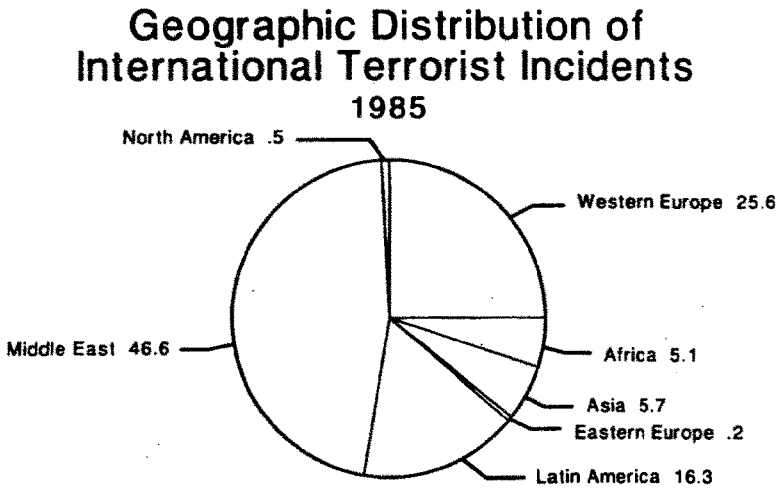
The reasons for state support and use of such groups are many. Terrorism has become another means of conducting foreign affairs. Such terrorists are agents whose association the state can easily deny. Use of terrorism by the country entails few risks, and constitutes strong-arm, low-budget foreign policy. Growing government assistance in arms, explosives, communications, travel documents, safehaven and training of fanatics are the types of aid that state-supported terrorists receive.

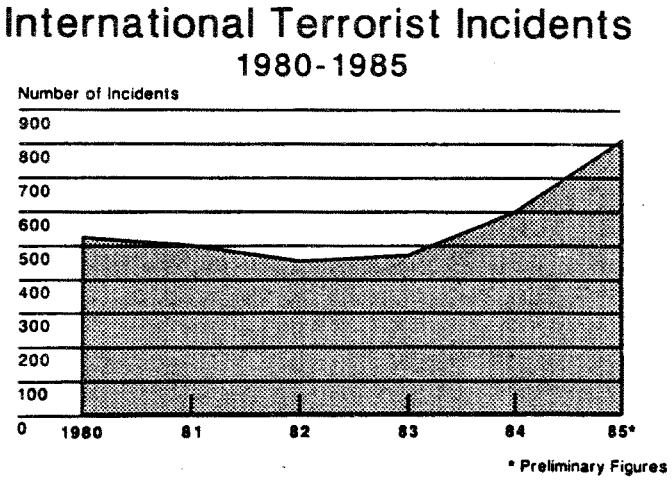
Some individuals or groups may choose to engage in terrorist violence in the context of activities such as national insurgency, especially when they may be losing a conflict, to try to create a special effect, embarrass opposing leadership, or change the pace of events.

The most deadly terrorists continue to operate in and from the Middle East. In 1985 they were involved in roughly 50 percent of the total worldwide terrorist incidents. The two main sources are militant Shi'ites from various Middle Eastern countries, especially Lebanon, supported to varying degrees by Iran or Syria; and radical Palestinian elements, principally offshoots of the Palestine Liberation Organization (PLO), often with direct support from Libya, Syria or Iran. Others, such as independent agents of governments like Libya, also conduct terrorist operations.

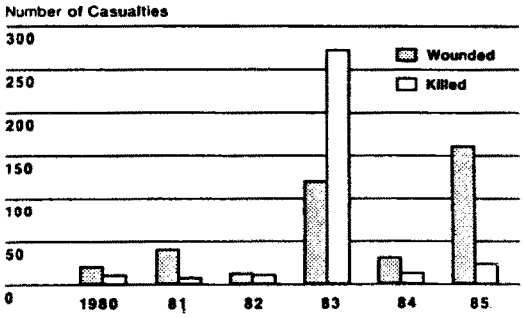
Middle East terrorist groups have three main targets: Israel; Western governments and citizens, particularly the United States, France, Italy, and the United Kingdom; and moderate Arab governments and officials, particularly those of Jordan, Egypt, Kuwait and Saudi Arabia.

Many terrorist organizations have continued to operate in Europe during the past decade, including the Italian Red Brigade, French Direct Action, German Red Army Faction and the Provisional Irish Republican Army. The latter has been and remains the most active.


Geographic Distribution of
International Terrorist Incidents
1985
North America .5
Western Europe 25.6
Middle East 46.6
Africa 5.1
Asia 5.7
Eastern Europe .2
Latin America 16.3


International Terrorist Incidents
1980-1985
Number of Incidents
900
800
700
600
500
400
300
200
100
0
1980
81
82
83
84
85*
* Preliminary Figures

U.S. Casualties Resulting From International Terrorist Incidents
1980-1985



Terrorist Incidents in the United States
1980-1985

Date	Total Incidents	Killed	Injured
1980	29	1	19
1981	42	1	4
1982	51	7	26
1983	31	6	4
1984	13	0	0
1985	7	2	10

Over the years the FBI has become increasingly involved in "special events" of national and international interest that take place in the United States and which could serve as an attractive target against terrorism. The Pan American games in San Juan, Puerto Rico, were the first such event where the FBI took precautions against terrorism. Others have been the New Orleans World's Fair and the two 1984 national political conventions in San Francisco and Dallas.

The 1984 Olympic Games in Los Angeles, with a record 140 countries participating, received close scrutiny by the FBI and other federal agencies. The federal law enforcement community worked in conjunction with local and state officials to coordinate the flow of intelligence regarding possible terrorist movements and attacks. Contingency plans were developed for an emergency response to any incident that might have occurred.

Despite this outstanding track record in combatting terrorism internally, our vulnerability remains. In fact, while the losses from terrorist attacks are minimal compared to the 40,000 highway deaths or 18,000 murders that occur annually in this country, there is more at risk than the senseless loss of lives.

Terrorism is political theater designed to undermine or alter governmental authority or behavior. The apparent inability of established governments to respond effectively to incidents affects the confidence of citizens and allies alike. America's foes take comfort in the apparent weaknesses of our society that terrorism exposes.

Our vulnerability lies, ironically, in the strength of our open society and highly sophisticated infrastructure. Transportation, energy, communications, finance, industry, medicine, defense, diplomacy and government itself rely on intricate interrelated networks. Given these inherent vulnerabilities, and the fact that Americans are increasingly the targets of terrorist attacks outside the United States, it is apparent that a potentially serious domestic threat exists. Recent threats such as Qaddafi's statement that Libyans will attack "American citizens in their own streets" only serve to underscore this worsening climate.

U.S. Policy and Response to Terrorists

Since no country is immune to terrorism, it is imperative that governments have the appropriate policies, intelligence and flexible response options to deal effectively with terrorist acts. Trained personnel and programs must be in place before, during and after each crisis, both to respond to the problem and to answer inevitable criticism in the event of failure. Long-term policies to achieve these objectives are costly, complicated and difficult, yet essential as a defense against the importation of terrorism from overseas.

CURRENT POLICY

The U.S. position on terrorism is unequivocal: firm opposition to terrorism in all its forms and wherever it takes place. Several National Security Decision Directives as well as statements by the President and senior officials confirm this policy:

- The U.S. Government is opposed to domestic and international terrorism and is prepared to act in concert with other nations or unilaterally when necessary to prevent or respond to terrorist acts.
- The U.S. Government considers the practice of terrorism by any person or group a potential threat to its national security and will resist the use of terrorism by all legal means available.
- States that practice terrorism or actively support it will not do so without consequence. If there is evidence that a state is mounting or intends to conduct an act of terrorism against this country, the United States will take measures to protect its citizens, property and interests.
- The U.S. Government will make no concessions to terrorists. It will not pay ransoms, release prisoners, change its policies or agree to other acts that might encourage additional terrorism. At the same time, the United States will use every available resource to gain the safe return of American citizens who are held hostage by terrorists.
- The United States will act in a strong manner against terrorists without surrendering basic freedoms or endangering democratic principles, and encourages other governments to take similar stands.

U.S. policy is based upon the conviction that to give in to terrorists' demands places even more Americans at risk. This no-concessions policy is the best way of ensuring the safety of the greatest number of people.

EVOLUTION OF POLICY

U.S. policy on terrorism has evolved through years of experience in combatting terrorism and is an outgrowth of responses by various Administrations.

Following the terrorist attacks at the 1972 Munich Olympics, President Nixon established a Cabinet-level committee, chaired by the Secretary of State, to combat terrorism. Later during the Carter Administration this group was replaced with a more responsive program coordinated by the National Security Council. The program was designed to ensure interagency coordination and established the Lead Agency concept for managing terrorist incidents.

The Carter Administration also established a 10-member senior-level Interagency Executive Committee on Terrorism that eventually evolved into a group of more than 30 government organizations. The Committee was subsequently restructured along more functional lines.

During the first year of President Reagan's Administration, an organizational structure for crisis management was established with a group chaired by the Vice President and supported by appropriate interagency working groups.

In April 1982, the President refined specific Lead Agency responsibilities for coordination of the Federal response to terrorist incidents:

- Department of State—incidents that take place outside U.S. territory
- Department of Justice (FBI)—incidents that take place within U.S. territory
- Federal Aviation Administration (FAA)—incidents aboard aircraft that take place within the special jurisdiction of the United States.

In addition to the Lead Agency responsibilities, a number of interagency groups to facilitate coordination were established, including the Interdepartmental Group on Terrorism, to develop and coordinate overall U.S. policy on terrorism. Chaired by the Department of State, the group meets frequently to deal with issues such as international cooperation, research and development, legislation, public diplomacy, training programs and antiterrorist exercises.

The Antiterrorist Assistance Program was established in 1983 to provide counterterrorism training and law enforcement assistance to friendly foreign governments.

RANGE OF RESPONSES TO TERRORISM

Terrorism requires a coordinated national response on three levels. First, the immediate problem of managing incidents must include measures taken before, during and after the event. Second, coping with the threat is a long-term task that involves protecting people and property, reducing threat levels, and influencing the users and sponsors of terrorism to desist. Finally, there is the challenge of identifying and alleviating the causes of terrorism.

Managing Terrorist Incidents

While not applicable in every case, the options for managing terrorist incidents are:

- Preemption—Such actions are designed to keep an attack from occurring. Preemptive success is limited by the extent to which timely, accurate intelligence is available. Every-

day activities that can preempt attacks include altering travel routes or avoiding routine schedules. Successful preemption of terrorist attacks is seldom publicized because of the sensitive intelligence that may be compromised.

- Delay—Sometimes avoiding specific reactions until the circumstances are favorable is the best course. Delaying tactics are used during a terrorist incident in order to stall for time to position forces, keep the terrorists off balance, or develop other responses. Such tactics are particularly valuable when time is important to secure international cooperation in order to apply economic, diplomatic, legal or military pressures.

- Third-Party Arrangements—When incidents occur overseas the host country has primary responsibility for managing the situation. In other cases, for diplomatic or political reasons, the use of third-parties may offer the best opportunity for successful resolution of the incident.

- Negotiating—The United States has a clear policy of no concessions to terrorists as the best way to protect the greatest number of people. However, the United States Government has always stated that it will talk to anyone and use every available resource to gain the release of Americans held hostage.

- Counterattacking or Force Options—Forceful resolution of a terrorist incident can be risky as evidenced by the recent episode involving the Egyptian airliner on Malta; careful planning and accurate, detailed intelligence are required to minimize risks.

Our principles of justice will not permit random retaliation against groups or countries. However, when perpetrators of terrorism can be identified and located, our policy is to act against terrorism without surrendering basic freedoms or endangering democratic values. We are prepared to act in concert with other nations, or unilaterally when necessary, to prevent or respond to terrorist acts. A successful deterrent strategy may require judicious employment of military force to resolve an incident.

Recent legislation has greatly expanded federal criminal jurisdiction over international terrorist incidents involving U.S. citizens. Violent terrorist acts are crimes. Accordingly, the United States will make every effort to investigate, apprehend and prosecute terrorists as criminals.

Coping with the Threat

Dealing effectively with terrorism requires long-term measures for providing physical and personal security, training personnel, and enlisting the cooperation of other governments in protective measures, in gathering and sharing intelligence and in the elimination of terrorist threats.

The growth in frequency and violence of terrorist acts has increased physical and personal security costs, and changed lifestyles and work habits. Expenditures for security programs have grown sharply, but attacks against U.S. personnel and facilities in the Middle East, Europe and Latin America show that more must be done to provide security systems and to sensitize and train employees to better manage the threat.

Cooperation with host governments is essential, since they have the primary responsibility for providing security for U.S. citizens and facilities abroad. Their ability to monitor and

control terrorist activities, as well as participate in cooperative measures to collect and share intelligence, is extremely important. Improving aviation and other international security programs and sharing benefits of terrorism-related research and development are equally critical. Securing cooperation in applying political or economic pressures on states that sponsor terrorism is a difficult yet vital part of the overall program.

Alleviating Causes of Terrorism

Terrorism is motivated by a range of real and perceived injustices that span virtually every facet of human activity. The resulting grievances provide the basis for recruitment and the terrorists' justification of violence. A cooperative international effort to mitigate the sources of grievances, such as pursuing the peace process in the Middle East, is an essential yet complicated and long-term objective. The issues are complex, highly emotional and seldom amenable to outside solutions. However, efforts that promote democratic societies with guaranteed personal freedoms continue to be the cornerstone of U.S. foreign policy.

U.S. RESOURCES FOR COMBATTING TERRORISM

Most resources committed to combatting terrorism are incorporated into a variety of diplomatic, military, legal and law enforcement programs. As a result, a precise identification of U.S. Government resources devoted to terrorism alone is difficult. At present more than 150 specific activities to combat terrorism are carried out by various federal departments and agencies.

Since 1970, federal expenditures to combat terrorism have increased severalfold. While it is extremely difficult to break out specific activities from those agencies that perform multiple functions, about $2 billion was spent in 1985 to combat terrorism both at home and abroad. The total number of people—calculated in terms of man-years—assigned to these various programs in 1985 was approximately 18,000.

The majority of the 150 activities included in this country's effort to combat terrorism fall within eight broad categories: research and development; administration and support; command, control and communications; intelligence; personnel security; physical security; counterterrorist operations; and education and training.

While agency estimates for funding and manpower needs for most of the categories are projected to continue at modest rates of growth through 1990, substantial increases in funding and manpower for physical security are expected at home and abroad.

Other program emphasis during this period is projected to occur in the following areas:

- More law enforcement, prosecution of terrorists
- Better security for civil aviation and maritime activities
- Increased assistance to other governments
- Better, more timely intelligence

Historically, security concerns have not received the high priority from government that they do today. Over the past few years, the dramatically changing situation has resulted in vastly increased financial and human resource expenditures to deal with the threat. By 1990, physical and personal security funding is expected to make up 40 percent of our resources committed to combatting terrorism.

PERSONAL AND PHYSICAL SECURITY

Several federal and local government agencies are responsible for domestic protection of foreign missions, resident diplomats and visiting dignitaries. Although excellent relations exist, occasional coordination problems occur among agencies of the federal and local government. This affects reciprocal foreign government protection provided U.S. visitors, personnel and installations. Decisions to resolve the problems of overlapping jurisdictions are complicated and require comprehensive study.

Frequent and violent attacks overseas have become a major concern. Necessary reliance on host country protection of U.S. installations and personnel, the most visible and difficult to protect terrorist targets, complicates the security issue. U.S. efforts to minimize vulnerabilities, increase awareness, and provide maximum protection have, nonetheless, made progress.

For example, the Secretary of State's Advisory Panel on Overseas Security convened in 1984 with a mandate to consider the full range of issues related to improving the security of U.S. interests abroad and protecting foreign visitors at home. The recommendations, many already implemented, concern organizational structure, responsibility assignments, personnel systems, training, equipment, accountability and physical strengthening of facilities. The physical security program alone, which would modify existing structures and require some new buildings, is currently budgeted for $2.7 billion over the next five years.

FEDERAL AGENCIES' ROLES IN COMBATTING TERRORISM

Most agencies' activities related to combatting terrorism are closely meshed with their other national security functions. To a large extent, their resources are also used for normal diplomatic initiatives, law enforcement, intelligence collection and analysis, research and development, and broad crisis management functions.

The National Security Council (NSC) advises the President on national security matters. Working closely with concerned interagency groups such as the Interdepartmental Group on Terrorism and the Crisis Pre-planning Group, it also coordinates the development and implementation of programs to combat terrorist attacks or threats. In the event of a terrorist incident, the NSC staff serves as liaison between the White House and the responsible Lead Agency.

As previously mentioned, three Lead Agency assignments are in place for managing terrorist incidents: the Department of State for incidents occurring outside the United States; the Department of Justice (FBI) for incidents within the United States; and the Federal Aviation Administration of the Department of Transportation for hijacked aircraft in flight.

Lead Agencies assume coordination responsibilities in addition to their statutory functions. The Lead Agency cannot exercise exclusive jurisdiction, but has the lead because of primary operational and policy responsibilities in the area concerned. It is expected to discharge its own functions and ensure that interests of other departments and agencies are reflected in recommendations to the National Security Council. Between incidents, the Lead Agency works with other agencies to develop policy approaches, maintain necessary relationships with other governments and organizations, keep current on intelligence and other developments in the field, and maintain a readiness to respond whenever an incident occurs. During an incident, the Lead Agency establishes and maintains a Working Group to coordinate with other agencies and to discharge its own primary responsibilities. Accordingly, State, the FBI and the FAA maintain operations centers with staff support, secure and nonsecure voice communications, and satellite capabilities worldwide.

The specific functions of each of the Lead Agencies, as well as those of other key federal departments, agencies and interagency working groups that are part of the national program are covered in detail in Appendix II.

INTERNATIONAL COOPERATION

The national program to combat terrorism operates before, during and after an incident. Any strategy must include measures for deterrence, crisis management and response options. The first line of defense in every phase is international cooperation.

International cooperation offers the best hope for long-term success. More and more states recognize that unilateral programs for combatting terrorism are not sufficient. Without a viable, comprehensive, cooperative effort, terrorism and its supporters will benefit from the uncoordinated actions of its victims. International cooperation alone cannot eliminate terrorism, but it can complicate the terrorists' tasks, deter their efforts and save lives. In fact, numerous actual or planned attacks against U.S. or foreign targets have failed or were circumvented through multinational cooperation.

The United States pursues international cooperation through bilateral or multilateral agreements with like-minded nations and by serving as a member of various international organizations.

The United States has found the best multilateral forum for the discussion of terrorism to be the industrialized democracies which constitute the Summit Seven (United States, Canada, the United Kingdom, France, West Germany, Italy and Japan). This group has issued four joint declarations of unity (Bonn, 1978; Venice, 1980; Ottawa, 1981; and London, 1984), which have outlined areas of common concern. Additionally, the United States is looking for ways in which it can cooperate more closely with other countries outside this group. For example, there was strong emphasis in 1978 on anti-hijacking measures. The Bonn Declaration, signed in July 1978 by the United States, United Kingdom, Canada, France, Federal Republic of Germany, Italy and Japan, called for member countries to terminate civilian airline service to any country failing to prosecute or extradite a hijacker.

On December 9, 1985, the United Nations General Assembly, with strong U.S. support, passed by consensus vote its first unequivocal resolution condemning terrorism. Eleven days later the U.N. Security Council adopted a U.S.-initiated resolution condemning

unequivocally all acts of hostage-taking and urging the further development of international cooperation among states to facilitate the prevention, prosecution and punishment of hostage-taking as international terrorism. While such resolutions lack implementing procedures and are thus largely symbolic, they are important to the development of a consensus among all nations that terrorism is unacceptable international behavior.

Another important international initiative is the State Department's Anti-Terrorism Assistance Program designed to enhance the ability of foreign governments to deal with the security and crisis management aspects of terrorism.

Substantial progress in international cooperation also has been made in the areas of aviation and maritime security. For example, in June 1985, following the hijacking of TWA Flight 847, the International Civil Aviation Organization (ICAO) moved quickly to upgrade its Standards and Recommended Practices for airport and aircraft security. The Departments of State and Transportation are seeking ways to take legal action against countries that do not maintain adequate airport security or refuse to extradite or prosecute hijackers. Procedures also are under consideration to provide international inspection teams to examine airport security arrangements worldwide.

In November 1985, following the hijacking of the *Achille Lauro*, the International Maritime Organization (IMO) acting on a U.S. initiative directed its Maritime Safety Committee to develop, on a priority basis, measures for the protection of passengers and crews aboard ships. Additionally, an interagency working group, chaired by the Department of Transportation, was established to assess worldwide port and shipping security. Its recommendations are being worked through the IMO, with bilateral and multilateral security initiatives being pursued as needed.

CONSIDERATIONS IN DETERMINING RESPONSES

The United States can retaliate politically, economically and militarily. The utility of these actions depends in great measure on cooperation from other countries, but they can have a positive, long-range deterrent effect.

Use of our well-trained and capable military forces offers an excellent chance of success if a military option can be implemented. Such use also demonstrates U.S. resolve to support stated national policies. Military actions may serve to deter future terrorist acts and could also encourage other countries to take a harder line. Successful employment, however, depends on timely and refined intelligence and prompt positioning of forces. Counter-terrorism missions are high-risk/high-gain operations which can have a severe negative impact on U.S. prestige if they fail.

A U.S. military show of force may intimidate the terrorists and their sponsors. It would not immediately risk more U.S. lives or prestige and could be more effective if utilized in concert with diplomatic, political or economic sanctions. There are, however, some distinct disadvantages: a show of force could be considered gunboat diplomacy, which might be perceived as a challenge rather than a credible threat; it may require a sizable deployment of support activities; it may provide our enemies with a subject for anti-American propaganda campaigns worldwide; and most important, an active military response may prove necessary to resolve the situation if a show of force fails.

Political or economic sanctions directed against sponsoring states offer the least direct danger to lives and property and are more likely than military force to gain international support. Such sanctions could stimulate domestic opposition to a government's support for terrorists, particularly if multinational in character. However, multilateral sanctions are difficult to organize and even then may not be effective. Further, they could unify the country against the United States, since sanctions often harm the general populace more than terrorists. In every case the advantages of sanctions must be weighed against other foreign policy objectives.

INTELLIGENCE

Success in combatting terrorism is predicated on the availability of timely and accurate intelligence. One approach to assuring timely information in combatting terrorism involves conventional human and technical intelligence capabilities that penetrate terrorist groups and their support systems, including a sponsoring state's activities. An equally important approach is through investigative police efforts. Collecting tactical police intelligence aids in monitoring terrorists' activities and may be crucial to tracking subnational groups or small terrorist bands. The national intelligence effort relies heavily on collection and liaison arrangements that exist with many friendly governments. This effort must be augmented with the results of investigative police work and law enforcement liaison arrangements, which are currently being expanded.

Long-term intelligence programs to combat terrorism involve collection and analysis that address regional history, culture, religion, politics, psychology, security conditions, law enforcement and diplomatic relationships. The requirement for accurate analysis applies both to long-term threat assessments and to support incident management. All terrorism-related intelligence collection and analysis must be directed toward production and dissemination of clear, concise, and accurate threat warnings and assessments to decision-makers in time for them to take necessary action.

The Role of Congress in Combatting Terrorism

Terrorism is a bipartisan issue and as the threat has increased, so has the resolve of Congress to ensure appropriate punishment of terrorists. In recent years, Congress and the Executive Branch have worked closely together to close existing statutory loopholes in our ability to prosecute terrorists and reduce their sources of support.

CURRENT LEGISLATION

In 1984, several significant bills were passed that have enabled the United States to expand its jurisdiction over terrorists. These bills have greatly enhanced the U.S. role in prosecution of hijackers, making it a federal offense to commit an act of violence against any passenger on a government or civilian aircraft. The U.S. also now has the authority to prosecute any person who destroys a foreign aircraft outside of the United States if the terrorist is later found in this country.

Legislation covering crimes against the families of high-ranking federal officials provides for the prosecution of acts of violence against the immediate family members of the President, Vice President, Members of Congress, all federal judges, the heads of executive agencies, the Director of the CIA and federal law enforcement officials.

New 1984 "Murder-for-Hire" legislation makes it possible for the United States to prosecute anyone who travels or uses transportation or communications facilities in interstate or foreign commerce with the intent to murder for compensation.

The Attorney General and the Secretary of State received new authority from Congress in 1984 to reward any individual for information leading to the arrest and conviction of any person who committed terrorist acts against U.S. citizens or property. The Attorney General has delegated this authority to the Director of the FBI. The State Department currently has a $3 million budget to pay rewards in international terrorism cases.

Since January 1, 1985, the International Traffic in Arms Regulations have been expanded to require a license for anyone in the United States to train any foreign national (who is not a permanent resident alien of the United States) in the use, maintenance, repair or construction of any item included on a specified list of munitions.

PENDING LEGISLATION

There are several significant initiatives in the Congress that are aimed at correcting many of the remaining statutory shortfalls. If passed, they could give the Administration greater capability in the legal battle against terrorism.

One of the major pieces of legislation that is under consideration is an amendment to the Hostage-Taking Act of 1984. This measure permits a death penalty if a terrorist takes the life of a person during a hostage-taking situation. The present maximum penalty is life imprisonment, even if a hostage is killed.

Another legislative measure would significantly expand federal criminal jurisdiction to allow prosecution of any terrorist who kills, seriously assaults, or kidnaps a U.S. citizen outside the United States, or conspires outside of the United States to murder an American citizen within the United States.

Recent decisions of U.S. courts have blocked the extradition of persons accused or convicted of terrorist acts abroad on the grounds that their violent crimes, including murder, were political offenses. Moreover, similar provisions in foreign extradition laws have frustrated efforts to bring accused terrorists to this country for trial. To correct this situation, the United States has begun negotiations with selected countries to revise extradition treaties to preclude the use of the political offense exception in cases involving violent crime.

Another pending initiative would permit nuclear reactor licensees access to FBI criminal history files. The review of these files could prevent hiring known or suspected criminals or terrorists to fill sensitive positions.

POTENTIAL LEGISLATION

Two areas require review to determine whether legislation or other administrative measures are necessary. The first is airport and port security. Continuous review and upgrade of security measures are needed; however, no federal statutes currently mandate development of measures to protect ports, vessels, passengers or crew members.

The second is a review of the Freedom of Information Act (FOIA) to determine the validity of reported abuses. It is alleged that terrorists and terrorist organizations, in addition to unfriendly foreign governments, have used the Act to gain sensitive information. Should a review confirm such abuses, a revision will be required.

One area in which there is concern both in Congress and the Executive Branch is the issue of Congressional oversight of proposed counterterrorist operations. It may be appropriate to pursue informal discussions between the Congress and Executive Branch to clarify reporting and oversight requirements in this area. Because hostage rescue and counterterrorist operations are sensitive and involve a variety of different circumstances, no set of specific procedures would be appropriate in all cases.

Legislation calling for the formation of a Joint Committee on Intelligence has been introduced in the House, but is still in the early stages of development. The advantages are essentially twofold—streamlined procedures for intelligence oversight and reduced numbers of people who have access to sensitive information.

Finally, consideration should be given to legislation which gives the federal government primary jurisdiction over terrorist acts committed against federal officials and property as well as against foreign officials and facilities within the United States.

Viewpoint of the American People

Terrorism deeply troubles the American people. A Roper Poll conducted before the TWA 847 hijacking showed that 78 percent of all Americans consider terrorism to be one of the most serious problems facing the U.S. Government today, along with the deficit, strategic arms control and unemployment.

Public sentiment about how to deal with terrorism also has political ramifications. The Iranian hostage situation demonstrated the political liabilities in failing to meet the expectations of American citizens. The standing of British Prime Minister Thatcher's government was enhanced in the aftermath of the 1980 rescue of the hostages at the Iranian Embassy in London. A Washington Post-ABC news poll showed that President Reagan received a large boost in standings from his success in dealing with the *Achille Lauro* hijacking—80 percent said they approved of the action. Frustration was also evident in the same poll with many Americans skeptical that apprehension of the hijackers would do much to alleviate terrorism.

Attacks on Americans in Beirut in 1983 and 1984 precipitated national grief and public frustration and resulted in significant changes in our foreign policy in the Middle East. The Americans currently held hostage in Lebanon continue to receive the concern of the American people and the highest priority of the U.S. Government.

A special group interview project, conducted in November 1985, helped to document the attitude of the American public. Individuals interviewed do not believe that terrorism has a direct effect on their lives, but the indirect effects evoked strong reactions. Americans feel fearful, vulnerable, victimized and angry. Most of all, they are frustrated by a sense of helplessness.

Also, the research project shows that Americans believe terrorism affects perception of the United States as a powerful country and world leader. Terrorism reduces America's status to being seen as a "pawn"—powerless, easily manipulated and at the mercy of attackers because Americans cannot or do not fight back.

The President is seen as ultimately responsible for fighting terrorism, although the group polled recognizes that government agencies are also involved. Most believe that the government is responsible for keeping them safe wherever they go.

Even though those Americans surveyed believe the government is virtually helpless when it comes to catching terrorists, they feel something should be done. Solutions recommended include international cooperation among countries, including economic sanctions, and tighter security at airports and aboard aircraft. Active measures such as military actions are much more controversial among those interviewed, although welcomed by many.

With regard to policy on terrorism, most responded that there was no cohesive policy, but said there should be one. There is an awareness that the United States will not negotiate with terrorists. Those interviewed believe a policy on terrorism should reflect national values: respect for individual life, respect for law, and respect for the sovereignty of nations.

Under the umbrella of such a policy, Americans would still welcome actions against terrorists that are swift, forceful and even aggressive. There is growing evidence the American people support timely, well-conceived, well-executed operations, such as the capture of the *Achille Lauro* hijackers. They endorse similar actions even if inadvertent casualties result.

Also, those surveyed think Americans need to be made aware and reassured that U.S. counterterrorist forces are highly trained and capable.

Terrorism and the Media

Terrorism is a form of propaganda, demanding publicity to be effective. Among the factors cited for the increases in both the number and sensational nature of incidents is the terrorists' success in achieving wider publicity and influencing a much broader audience. Terrorists see the media's role in conveying their messages worldwide as essential to achieving their goals. If the violence is spectacular, wide coverage is usually assured.

Terrorist acts are newsworthy, and the media see coverage as a professional, competitive responsibility. Some in the media have claimed that intense coverage helps to resolve an incident and that putting the hostages on television may actually save their lives. The other side of this argument is that untimely or inaccurate information released by the media can interfere with resolution of an incident, foreclose options for dealing with it, or unwittingly provide intelligence information to terrorists, which prolongs an incident or endangers lives.

It is essential, therefore, that the government and the media cooperate during a terrorist incident, which almost inevitably involves risk to human lives, human rights and national interests.

One difficulty for the press is that it cannot provide accurate coverage that takes into account risk to government action unless it has some accurate sense of what the government is attempting. Government thus can assist by providing as much timely, factual information as the situation allows.

Media practices that can lead to problems during an incident are:

- Saturation television coverage, which can limit or preempt the government's options.
- Political dialogue with terrorists or hostages.
- Coverage of obviously staged events.
- Becoming part of the incident and participating in negotiations. The media in the role of an arbiter usurps the legal responsibilities of the government.
- Payments to terrorist groups or supporters for interviews or access.
- Coverage of military plans or deployments in response to terrorist incidents.

The solution to these problems is not government-imposed restraint that conflicts with the First Amendment's protection of freedom of speech and the press. The media must serve as their own watchdog. Journalistic guidelines have been developed for use during wartime to protect lives and national security, and in some circumstances should be considered appropriate during a terrorist situation.

The government has a responsibility to maintain effective communications during a terrorist incident. Officials should keep their comments within cleared guidance, avoid sending inadvertent signals, or leading other governments astray. Conflicting statements by different departmental spokespersons give an impression of disarray, which meets one of terrorism's objectives.

Many Americans believe that terrorists use the media to achieve their goals, according to the previously mentioned research study. While they also believe that the media exaggerates and sensationalizes incidents, they firmly support absolute freedom of the press as guaranteed by the First Amendment.

Television coverage received the most criticism, with some coverage perceived as inaccurate, incomplete and not reflective or analytical. According to those interviewed, it has the potential for making heroes out of criminals and exploiting the privacy and grief of affected families. Television also dramatizes the entertainment value of an event. Newspapers were judged as offering more detailed information and news magazines as offering more perspective.

The Task Force found that much of the media coverage concentrates on the families of hostages as human interest stories. Their public statements understandably reflect the perspectives of distraught individuals principally concerned with the safe return of their relatives. Some of these statements may unintentionally play into the hands of terrorists, who reinforce the families' concerns by claiming the lives of the hostages are in danger. Family members sometimes turn to the media to bring pressure on the Administration to take action that may not be appropriate or possible.

While both the American public and the Administration have debated the role of the media in terrorist incidents, the media has questioned its own policies. The coverage of the TWA Flight 847 hijacking in June 1985, where 104 Americans were taken hostage and one was murdered, stimulated a professional review within the media to reexamine the balance between the desired goal of keeping the people informed and the vital issue of public security. Individual media organizations have discussed professional reporting guidelines, and ethical standards have been adopted by some members of the press, including television networks. However, there is no industry consensus on either the need for or the substance of such guidelines.

Task Force Conclusions and Recommendations

Terrorists of the '80s have machine-gunned their way through airports, bombed U.S. Embassies and military facilities, pirated airplanes and ships, and tortured and murdered hostages as if "performing" on a global theater screen. These international criminals have seized not only innocent victims but also the attention of viewers who sit helplessly before televisions around the world.

International terrorism is clearly a growing problem and priority, requiring expanded cooperation with other countries to combat it. Emphasis must be placed on increased intelligence gathering, processing and sharing, improved physical security arrangements, more effective civil aviation and maritime security, and the ratification and enforcement of treaties.

It is equally essential, however, that our defense against terrorism be enhanced domestically. For unless the trend of terrorism around the world is broken, there is great potential for increased attacks in our own backyard.

The Task Force's review of the current national program to combat terrorism found our interagency system and the Lead Agency concept for dealing with incidents to be soundly conceived. However, the system can be substantially enhanced through improved coordination and increased emphasis in such areas as intelligence gathering, communications procedures, law enforcement efforts, response option plans, and personal and physical security.

Terrorism is a bipartisan issue and one that members of Congress have jointly and judiciously addressed in recent years. Significant bills have been passed that markedly expand U.S. jurisdiction over terrorists and close prosecution loopholes.

However, there are stronger legislative proposals that are now before Congress that would further strengthen the nation's ability to combat terrorism both at home and abroad. Many of these proposals merit strong Administration support. It is also essential that the Executive Branch agencies continue to work closely with Congress in reviewing our current programs and recommending other legislative initiatives as appropriate.

Terrorism deeply troubles the American people. They feel angry, victimized, vulnerable and helpless. At the same time, they clearly want the United States Government to have a strong and consistent national antiterrorist policy. While such a policy exists, the Task Force believes that better communication is necessary to educate the public to our policy and to the ramifications of using force during a terrorist attack.

Americans also believe that terrorists take advantage of our free press to achieve their goals. News coverage of terrorism has created a dilemma for media executives: how to keep the people informed without compromising public security. Solving this problem will have to be a joint effort between media and government representatives. The government must improve its communications with the media during a terrorist attack. At the same time, the media must maintain high standards of reporting to ensure that the lives of innocent victims and national security are not jeopardized.

In December 1985, the Task Force on Combatting Terrorism completed its comprehensive examination of terrorism both internationally and domestically. It also finished its review of our nation's policy and programs for combatting terrorism.

The resultant findings emphasized the importance and appropriateness of a no-concessions position when dealing with terrorists. Some of the recommendations must remain classified, but the following unclassified Task Force recommendations are in keeping with that national policy and are intended to strengthen and streamline our current response system.

NATIONAL POLICY AND PROGRAM RECOMMENDATIONS

National Programming Document

Currently a number of agencies and departments within the Executive Branch are responsible for the elements of our national program to combat terrorism. While this is a reasonable and appropriate approach, the various elements should be compiled in a single programming document. Such a comprehensive listing would allow quick identification of agencies responsible for dealing with particular aspects of terrorism and their available resources.

The Task Force believes that such a document is necessary for the most effective coordination of the department and agency activities that comprise our national program. The NSC staff, in conjunction with OMB and the Departments of State and Justice, would maintain this national programming document.

Policy Criteria for Response to Terrorists

Because acts of terrorism vary so much in time, location, jurisdiction and motivation, consistent response is virtually impossible. However, the Interdepartmental Group on Terrorism should prepare, and submit to the NSC for approval, policy criteria for deciding when, if and how to use force to preempt, react and retaliate. This framework will offer decisionmaking bodies a workable set of standards by which to judge each terrorist threat or incident. The use of this framework also would reassure the American people that government response is formulated consistently.

Criteria for developing response options might include the following:

- Potential for injury to innocent victims
- Adequacy and reliability of intelligence
- Status of forces for preemption, reaction or retaliation
- Ability to identify the target
- Host country and international cooperation or opposition
- Risk and probability of success analysis

- U.S. public attitude and media reaction
- Conformance with national policy and objectives

Establish New National Security Council Position

A full-time NSC position with support staff is necessary to strengthen coordination of our national program. Working closely with the designated Lead Agencies, the position will be responsible for:

- participating in all interagency groups
- maintaining the national programming document
- assisting in coordinating research and development
- facilitating development of response options
- overseeing implementation of the Task Force recommendations

Speak with One Voice

Clear communications by appointed spokespersons and coordination of public statements during a terrorist incident are vital. Interagency working groups should provide specific guidance to all spokespersons on coordinating public statements. Without coordination, inaccurate information may result, intelligence resources may be compromised and political distress can result among friends and allies throughout the world—at a time when international cooperation can save lives.

Designation of spokespersons and response guidelines are especially important given the intense media pressure for comment during terrorist incidents. A misstatement or failure to consider legal issues before commenting to news media could jeopardize a criminal investigation or an eventual prosecution.

Review American Personnel Requirements in High-Threat Areas

Actions already have been taken to strengthen security of U.S. installations and to reduce personnel in dangerous areas. However, to date these efforts have not been fully coordinated among all agencies. The Department of State should direct Ambassadors in all designated high-threat areas to thoroughly review personnel requirements to determine if further personnel reductions are possible at U.S. facilities overseas. This review should include careful consideration of physical vulnerability of embassy-related facilities. The Department of Defense also should conduct a similar review for military commands abroad.

INTERNATIONAL COOPERATION RECOMMENDATIONS

Pursue Additional International Agreements

International cooperation is crucial to long-term deterrence of terrorism. It can be achieved through multilateral and bilateral agreements. While progress in achieving a multilateral

agreement has been slow, efforts should continue to reach an agreement to show that many nations are committed to fighting terrorism as an international crime against society.

In the absence of a multilateral agreement, the Department of State should aggressively continue to seek international cooperation through:

- general resolutions or agreements, in the United Nations and in other specialized organizations, concerning civil aviation, maritime affairs and tourism
- enhanced and more widely-ratified international conventions on subjects such as hijacking, hostage-taking and protection of diplomats
- less formal agreements that illustrate an international consensus to take effective action against terrorism
- improved implementation of existing agreements to fight terrorism

Close Extradition Loopholes

The United States itself is sometimes used as a safehaven for terrorists. Present extradition treaties with other countries preclude the turning over of fugitives wanted for "political offenses," an obvious loophole for terrorists. The State Department should seek extradition treaty revisions with countries with democratic and fair judicial systems to ensure that terrorists are extradited to the country with legal jurisdiction.

The process of closing these loopholes has begun with the United Kingdom in the form of proposed revisions to the US/UK Supplementary Treaty. The State Department should vigorously pursue Senate approval of this treaty and continue the revision process with other countries to ensure that terrorists are brought to justice.

Impose Sanctions Against Vienna Convention Violators

It is a fact that certain governments actively support terrorism. These states sometimes use their diplomatic missions as safehavens for terrorists or as caches for their materiel—a direct violation of the Vienna Convention. The State Department should continue working with other governments to prevent and expose violations of the Vienna Convention. A U.N. General Assembly resolution condemning the protection of terrorists in diplomatic missions could complement U.S. efforts to counter this abuse.

Evaluate and Strengthen Airport and Port Security

Pre-flight screening of passengers and carry-on baggage is a cornerstone of our domestic security program. Since 1972 these procedures have detected over 30,000 firearms and resulted in 13,000 arrests. However, the recent terrorist acts against international aviation and maritime interests indicate a need for continual monitoring and updated security procedures. This is especially true at ports and on board ships where there are no international or federally prescribed security measures.

The interagency Working Group on Maritime Security, chaired by the Department of Transportation, should survey security procedures and the threat potential to vessels, passengers and crew members. It also should review statutory authority. If adequate authority does not exist, recommendations should be made, in consultation with other ap-

propriate agencies, for new legislation. In addition, legislation should be pursued to allow for a criminal background investigation of individuals working in restricted areas at airports and terminals. Finally, the Department of State and the Coast Guard should continue to work through the International Maritime Organization to develop internationally agreed measures to protect ships' passengers and crews.

INTELLIGENCE RECOMMENDATIONS

Establish a Consolidated Intelligence Center on Terrorism

Intelligence gathering, analysis and dissemination play a pivotal role in combatting terrorism. Currently, while several federal departments and agencies process intelligence within their own facilities, there is no consolidated center that collects and analyzes all-source information from those agencies participating in antiterrorist activities. The addition of such a central facility would improve our capability to understand and anticipate future terrorist threats, support national crisis management and provide a common database readily accessible to individual agencies. Potentially, this center could be the focus for developing a cadre of interagency intelligence analysts specializing in the subject of terrorism.

Increased Collection of Human Intelligence

U.S. intelligence gathered by technical means is adequate and pursued appropriately. At the same time, there is clear need for certain information that can only be gained by individuals. An increase in human intelligence gathering is essential to penetrate terrorist groups and their support systems.

Exchange of Intelligence between Governments

The national intelligence effort relies heavily on collection and liaison arrangements that exist with many friendly governments. Such exchanges with like-minded nations and international law enforcement organizations have been highly useful and should be expanded to support our own intelligence efforts.

LEGISLATIVE RECOMMENDATIONS

Make Murder of U.S. Citizens Outside the Country a Federal Crime

Currently, it is not a crime under U.S. law to murder an American citizen outside our borders—with the exception of diplomats and some government officials. Legal protection of diplomats should be extended to include all U.S. nationals who are victims of international terrorism. The Departments of State and Justice should continue urging Congress to adopt legislation, such as the Terrorist Prosecution Act of 1985, that would accomplish this objective.

Establish the Death Penalty for Hostage Murders

While there is legislation that allows the imposition of the death penalty if a death results from the seizure of an aircraft, there is no specific legislation that would allow for the same penalty for murder of hostages in other situations. The Justice Department should pursue legislation making anyone found guilty of murdering a hostage under any circumstances subject to the death penalty.

Form a Joint Committee on Intelligence

Procedures that the Executive Branch must follow to keep the Select Intelligence Committees informed of intelligence activities need streamlining. Adoption of a Joint Resolution introduced last year by Congressman Hyde would create a Joint Committee on Intelligence. This Resolution would reduce the number of people with access to sensitive information and provide a single secure repository for classified material. The Department of Justice should lead an Administration effort to secure passage of the Hyde proposal.

Establish Additional Incentives for Terrorist Information

The 1984 Act to Combat International Terrorism authorizes payment of up to $500,000 for information in cases of domestic and international terrorism. Many feel this legislation does not go far enough.

The State Department should lead an interdepartmental push with Justice and CIA for legislation to develop a unilateral and/or bilateral program to encourage individuals to provide information about terrorists' identity or location. In addition to monetary rewards, other incentives include immunity from prosecution for previous offenses and U.S. citizenship for the individual and immediate family.

Authorized rewards should be publicized to both foreign and American audiences and consideration should be given to raising the current $500,000 ceiling to $1 million.

Prohibit Mercenary Training Camps

The International Trafficking in Arms Regulations have been strengthened to require a license to train foreign persons in the use of certain firearms; however, mercenary/survival training camps still operate domestically within the law. Appropriate agencies should closely monitor the extent to which foreign nationals are being trained in the United States in the use of firearms and explosives and seek additional legislation if necessary.

Stop Terrorist Abuse of the Freedom of Information Act

Members of terrorist groups may have used the Freedom of Information Act to identify FBI informants, frustrate FBI investigations and tie up government resources in responding to requests. This would be a clear abuse of the Act that should be investigated by the Department of Justice and, if confirmed, addressed through legislation to close the loophole.

Study the Relationship between Terrorism and the Domestic and International Legal System

International and domestic legal systems are adequate to deal with conventional war and crime. However, on occasion, questions of jurisdiction and authority arise when it comes to terrorism. For example, there are ambiguities concerning the circumstances under which military force is appropriate in dealing with terrorism. This lack of clarity about the international law enforcement relationships and legal systems could limit governments' power to act quickly and forcefully. The Departments of State and Justice should encourage private and academic study to determine how international law might be used to hasten—rather than hamper—efforts to respond to an act of terrorism.

Determine if Certain Private Sector Activities Are Illegal

In some cases individuals and companies have paid ransoms to terrorists for the return of kidnapped employees or stolen property. Such action is in direct conflict with the national policy against making concessions or paying ransoms to terrorists. The Department of Justice should consider whether legislation could be enacted and enforced to make such payments to terrorist organizations illegal.

COMMUNICATIONS RECOMMENDATIONS

Expand our Current Support Program for Hostage Families

Due to the intense pressure of a hostage situation, some family members of hostages have pressured the highest levels of government for information. While this is understandable, such activity has the potential to delay return of hostages by giving terrorists the media attention they seek or the belief that their demands are being considered. Further, the inadvertent disclosure of sensitive information could jeopardize efforts to gain the release of hostages.

The family liaison program, conducted by State's Bureau of Consular Affairs, should provide a broader outreach program to include visits, hot-lines, information on private counseling services and a personal contact for each family for communication even when there is nothing new to report. Such an expanded contact program will help the families understand that the hostages' interests are being given the highest priority by our government.

Launch a Public Education Effort

Because of the lack of understanding and currently available information concerning our national program for combatting terrorism, a broad education effort should be undertaken to inform the American public about our policy and proposals as well as the many ramifications of the use of force against terrorism, including death of innocent people, destruction of property, alienation of allies and possible terrorist reprisals. The education effort would take the form of publications, such as this report, seminars and speaking opportunities by government officials.

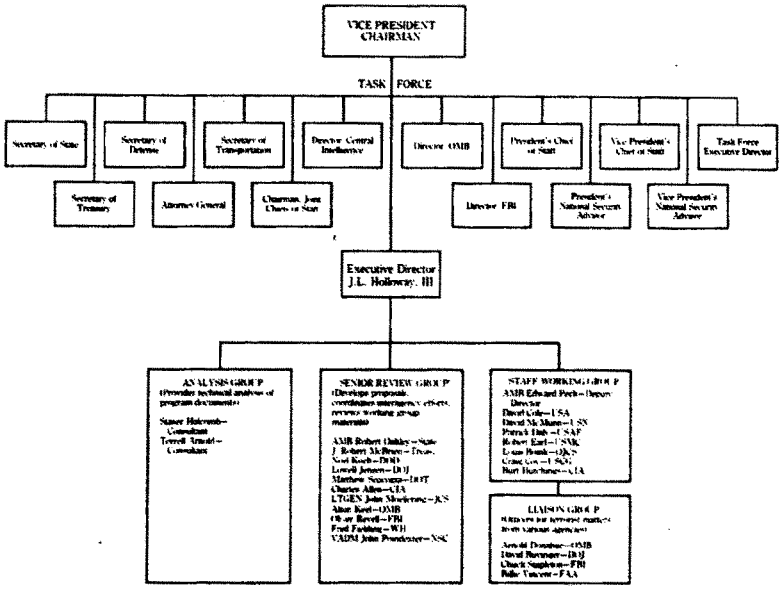
Working with the Media

Terrorists deliberately manufacture sensations to capture maximum media attention—a ploy that often takes advantage of U.S. press freedom. This activity can be offset by close communication between media and government. The U.S. Government should provide the media with timely information during a terrorist crisis. The media, in turn, should ensure that their reporting meets the highest professional and ethical standards.

Regular meetings between media and government officials on the coverage of terrorism could contribute to more effective government-media relations.

Appendix I

VICE PRESIDENT'S TASK FORCE ON COMBATTING TERRORISM



Appendix II

RESPONSIBILITIES OF PRINCIPAL DEPARTMENTS AND AGENCIES

Numerous federal departments and agencies contribute to the national program to combat terrorism. The following provides a detailed listing of the various activities of those agencies with major responsibilities.

The Department of State carries out programs for combatting terrorism in the following ways:

- Discharges its Lead Agency responsibilities for terrorism outside the United States
- Maintains the security of U.S. overseas diplomatic and consular facilities
- Cooperates with U.S. businesses as part of its effort to enhance the security of private U.S. citizens abroad
- Conducts research and analysis on terrorism
- Provides security for visiting foreign diplomats and dignitaries
- Protects the Secretary of State
- Provides training for personnel of U.S. overseas missions on security and crisis management
- Provides antiterrorism training and assistance to civilian security forces of friendly governments.

The principal offices involved in these functions are the Office of the Ambassador-at-Large for Counter-Terrorism; the newly created Bureau of Diplomatic Security; the Bureau of Intelligence and Research; the Office of Foreign Building Operations; the Foreign Service Institute; and the Office of Foreign Missions.

Department of Justice

The Department of Justice pursues the following counterterrorism-related activities and programs through the FBI, the Justice Department's Criminal Division and the Immigration and Naturalization Service:

- Carries out its Lead Agency function to prevent, respond to, and investigate violent criminal activities of international and domestic terrorist groups within U.S. jurisdiction
- Investigates terrorist acts abroad under the new Hostage-Taking Statute that makes the hostage-taking of U.S. citizens overseas a federal crime
- Collects and investigates intelligence on terrorists to predict potential movement or criminal activities

- Investigates terrorist incidents and related criminal activities using investigative techniques to identify, arrest, prosecute, and incarcerate those responsible
- Maintains operational liaison with local law enforcement agencies throughout the United States
- Provides training in the field and at the FBI Academy, Quantico, Virginia
- Participates with local and state authorities in joint terrorism task forces
- Provides computer-assisted research and analytical capability to other law enforcement and intelligence community agencies involved with counterterrorism
- Maintains contact with and conducts limited joint investigations with allied national police and security services on terrorism through 13 legal attache offices
- Collects technical information regarding terrorist explosives and bombings within the United States and disseminates it to international bomb data centers
- Heads the national Hostage Rescue Team, a special group of highly trained FBI agents who deal with critical terrorist situations.
- Provides legal direction and support during terrorism investigations
- Supervises and coordinates subsequent prosecution of members of domestic and international terrorist groups whose acts violate federal criminal law
- Inspects and determines eligibility for applicants to enter the United States
- Maintains national and local lookout systems containing data relating to excludable aliens, including suspect or known terrorists.

Department of Transportation

The Department of Transportation's Federal Aviation Administration, U.S. Coast Guard and the Office of the Secretary conduct antiterrorism programs by carrying out the following:

- Conducts Lead Agency responsibilities through the Federal Aviation Administration by promoting the security of civil aviation, including prevention of air piracy, sabotage and criminal activities within the jurisdiction of the United States
- Provides assistance to law enforcement agencies in interdicting movements into the United States of dangerous drugs and narcotics that may be connected with terrorist activities
- Maintains operational, investigative, communications, and liaison arrangements, with many foreign governments and private organizations such as aircraft manufacturers and airline pilots' associations

- Devotes substantial resources to airport and aircraft security programs both inside the United States and abroad
- Assures the safety and security of vessels, ports, and waterways, and their related shore facilities
- Offers transportation safety courses at domestic facilities in support of the Department of State's Anti-Terrorism Assistance Program
- Advises on transportation security matters; provides security programs to protect personnel, communications equipment, and facilities

Department of Defense

Defense Department agencies involved in combatting terrorism include the National Security Agency, the Defense Intelligence Agency and the Joint Chiefs of Staff. Individual armed services antiterrorist programs supplement the overall Defense Department effort. After the Iranian hostage rescue attempt, the Department of Defense established a counterterrorist organization with permanent staff and specialized forces. These forces, which report to the National Command Authorities through the Joint Chiefs of Staff, provide a range of response options designed to counter specific acts of terrorism.

Additionally, the Defense Department maintains worldwide technical collection systems for gathering round-the-clock information on terrorism, which it disseminates to other federal agencies. It also contributes intelligence analysis and operational support to the national counterterrorism effort, maintains data on terrorist groups and produces publications on incidents and advisory and warning messages.

Central Intelligence Agency

The Central Intelligence Agency and other elements of the intelligence community contribute vitally important intelligence to the NSC and the Lead Agencies before, during and after terrorist incidents. This organization is particularly crucial in the flow of information between the United States and other countries.

Analytical units of the CIA prepare both current and long-term reports on terrorist organizations, individuals and trends, and disseminate these reports on a timely basis to all government agencies with counterterrorist responsibilities. Should the White House direct military action in a counterterrorist situation, the CIA is prepared to provide intelligence support to the Defense Department.

The Director of Central Intelligence has overall coordinating responsibility within the intelligence community for counterterrorism. He has designated the National Intelligence Officer for Counterterrorism as the focal point to coordinate national counterterrorism intelligence activities and to ensure counterterrorism priorities are established for the intelligence community.

Department of the Treasury

Treasury's role in the fight against terrorism involves protection, investigation, intelligence, interdiction, training and response. Its activities range from thwarting an assault on the President, to investigating an arms export case, to imposing and enforcing economic sanctions on state sponsors of terrorism.

Principal Treasury agencies are the United States Secret Service, the Bureau of Alcohol, Tobacco, and Firearms, the United States Customs Service, the Federal Law Enforcement Training Center and the Internal Revenue Service.

Interagency Programs

Numerous interagency bodies contribute significantly to the national program. The major coordination effort, however, is carried out by the Interdepartmental Group on Terrorism, which is chaired by the Department of State and comprised of representatives from over a dozen departments and agencies.

Specific working groups have been established under the auspices of the Interdepartmental Group on Terrorism. Some of the more noteworthy are:

- Technical Support Working Group—assures the development of appropriate counterterrorism technological efforts
- Public Diplomacy Working Group—designed to generate greater global understanding of the threat of terrorism and efforts to resist it
- Anti-terrorist Assistance Coordinating Committee—coordinates the antiterrorism training programs of State, Defense and the CIA
- Rewards Committee—develops procedures for the monetary rewards program for information on terrorists
- Exercise Committee—coordinates antiterrorism exercise programs
- Maritime Security Working Group—assesses port and shipping vulnerabilities to terrorism
- Legislative Group—reviews legislative proposals and develops future antiterrorist initiatives.

3. Department of State

a. Patterns of Global Terrorism 1998

INTRODUCTION

The cowardly and deadly bombings of the US Embassies in Kenya and Tanzania in August 1998 were powerful reminders that the threat of international terrorism still confronts the world. These attacks contributed to a record-high number of casualties during 1998: more than 700 people died and almost 6,000 were wounded. It is essential that all law-abiding nations redouble their efforts to contain this global threat and save lives.

Despite the Embassy bombings, the number of international terrorist attacks actually fell again in 1998, continuing a downward trend that began several years ago. There were no acts of international terrorism in the United States last year. This decrease in international terrorism both at home and abroad reflects the diplomatic and law enforcement progress we have made in discrediting terrorist groups and making it harder for them to operate. It also reflects the improved political climate that has diminished terrorist activity in recent years in various parts of the world.

The United States is engaged in a long-term effort against international terrorism to protect lives and hold terrorists accountable. We will use the full range of tools at our disposal, including diplomacy backed by the use of force when necessary, as well as law enforcement and economic measures.

US POLICY

The United States has developed a counterterrorism policy that has served us well over the years and was advanced aggressively during 1998:

- First, make no concessions to terrorists and strike no deals.
- Second, bring terrorists to justice for their crimes.
- Third, isolate and apply pressure on states that sponsor terrorism to force them to change their behavior.

The Secretary of State has designated seven countries as state sponsors of terrorism: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria. In addition, the US Government certified an eighth country—Afghanistan—as not fully cooperating with US antiterrorism efforts.

- Fourth, bolster the counterterrorism capabilities of those countries that work with the United States and require assistance.

This last element is especially important in light of the evolving threat from transnational terrorist groups. These loosely affiliated organizations operate more independently of state sponsors, al-

though those relationships still exist. They are highly mobile and operate globally, raising large amounts of money, training in various countries, and possessing sophisticated technology. The United States must continue to work together with like-minded nations to close down these terrorist networks wherever they are found and make it more difficult for them to operate any place in the world.

THE US RESPONSE TO THE AFRICA BOMBINGS

Following the bombings of the two US Embassies in East Africa, the US Government obtained evidence implicating Usama Bin Ladin's network in the attacks. To preempt additional attacks, the United States launched military strikes against terrorist targets in Afghanistan and Sudan on 20 August. That same day, President Clinton amended Executive Order 12947 to add Usama Bin Ladin and his key associates to the list of terrorists, thus blocking their US assets-including property and bank accounts-and prohibiting all US financial transactions with them. As a result of what Attorney General Janet Reno called the most extensive overseas criminal investigation in US history, and working closely with the Kenyan and Tanzanian Governments, the US Government indicted Bin Ladin and 11 of his associates for the two bombings and other terrorist crimes. Several suspects were brought to the United States to stand trial. The Department of State announced a reward of up to $5 million for information leading to the arrest or conviction of any of the suspects anywhere in the world. [1]

NEW PRESIDENTIAL DECISION DIRECTIVES

On 22 May President Clinton announced the signing of two new Presidential decision directives, or PDDs, on combating terrorism and protecting critical infrastructures.

- The first directive, PDD–62, highlights the growing threat of unconventional attacks against the United States and details a new, more systematic approach to fighting the terrorist threat. It reinforces the mission of the many US agencies charged with roles in defeating terrorism. It also codifies and clarifies their activities in the wide range of US counterterrorism programs, from apprehending and prosecuting terrorists to increasing transportation security, enhancing response capabilities, and protecting the computer-based systems that lie at the heart of the US economy. The new directive also establishes the position of the National Coordinator for Security, Infrastructure Protection, and Counterterrorism to oversee the broad variety of relevant policies and programs.
- The second directive, PDD–63, calls for a national effort to ensure the security of the United States' increasingly vulnerable and interconnected infrastructures. These infrastructures include telecommunications, banking and finance, energy, transportation, and essential government services. The directive requires immediate US Government action, including risk as-

[1] Legislation passed by Congress and signed by the President in 1998 increased the maximum amount of a reward offered under the Counterterrorism Rewards Program from $2 million to $5 million.

sessment and planning, to reduce exposure to attack. It stresses the critical importance of cooperation between the US Government and the private sector by linking designated federal agencies with private-sector representatives.

US Diplomatic Efforts

On 24 August, Secretary Albright, in an effort to bring to justice the two Libyans suspected in the Pan Am 103 bombing, announced a joint US-UK proposal to try them in the Netherlands before a Scottish court with Scottish judges applying Scottish law. The Arab League, the Organization of African Unity, the Organization of the Islamic Conference, and the Non-Aligned Movement endorsed the proposal. At yearend, however, Libya continued to defy UN Security Council resolutions by refusing to turn over the suspects for trial.

The Group of 8 (G–8) partners intensified their exchange of basic information on persons and groups suspected of terrorist-linked activities. The eight nations also focused their efforts on trying to deprive terrorist groups of the money, acquired through criminal activities or raised by front organizations, used to fund operations. Toward this end, the G–8 placed major emphasis on countering terrorist fundraising and did substantial work to advance a French draft international convention to make such fundraising illegal. The G–8 also worked for the acceptance of a Russian-proposed international convention against nuclear terrorism, discussed improved export controls on explosives and other terrorist-related materials, and considered guidelines for the prevention and resolution of international hostage-taking incidents.

Representatives from the Organization of American States met in Mar del Plata, Argentina, on 23–24 November for the second Inter-American Specialized Conference on Terrorism. They agreed to recommend the creation of an Inter-American Committee on Terrorism to combat the threat in Latin America. They also agreed to establish a central database of information about terrorists, to follow certain guidelines for improving counterterrorism cooperation, and to adopt measures to eliminate terrorist fundraising.

The United States conducts a successful program to train foreign law enforcement personnel in such areas as airport security, bomb detection, maritime security, VIP protection, hostage rescue, and crisis management. To date, we have trained more than 20,000 representatives from more than 100 countries. We also conduct an active research and development program to adapt modern technology for use in defeating terrorists.

As Secretary Albright declared shortly after the US military strikes against terrorist targets in Afghanistan and Sudan: "The terrorists should have no illusion: Old Glory will continue to fly wherever we have interests to defend. We will meet our commitments. We will strive to protect our people. And we will wage the struggle against terror on every front, on every continent, with every tool, every day."

LEGISLATIVE REQUIREMENTS

This report is submitted in compliance with Title 22 of the United States Code, Section 2656f(a), which requires the Department of State to provide Congress a full and complete annual report on terrorism for those countries and groups meeting the criteria of Section (a)(1) and (2) of the Act. As required by legislation, the report includes detailed assessments of foreign countries where significant terrorist acts occurred and countries about which Congress was notified during the preceding five years pursuant to Section 6(j) of the Export Administration Act of 1979 (the so-called terrorism list countries that repeatedly have provided state support for international terrorism). In addition, the report includes all relevant information about the previous year's activities of individuals, terrorist organizations, or umbrella groups known to be responsible for the kidnapping or death of any US citizen during the preceding five years and groups known to be financed by state sponsors of terrorism.

In 1996, Congress amended the reporting requirements contained in the above-referenced law. The amended law requires the Department of State to report on the extent to which other countries cooperate with the United States in apprehending, convicting, and punishing terrorists responsible for attacking US citizens or interests. The law also requires that this report describe the extent to which foreign governments are cooperating, or have cooperated during the previous five years, in preventing future acts of terrorism. As permitted in the amended legislation, the Department of State is submitting such information to Congress in a classified annex to this unclassified report.

DEFINITIONS

No one definition of terrorism has gained universal acceptance. For the purposes of this report, however, we have chosen the definition of terrorism contained in Title 22 of the United States Code, Section 2656f(d). That statute contains the following definitions:

- The term "terrorism" means premeditated, politically motivated violence perpetrated against noncombatant[2] targets by subnational groups or clandestine agents, usually intended to influence an audience.
- The term "international terrorism" means terrorism involving citizens or the territory of more than one country.
- The term "terrorist group" means any group practicing, or that has significant subgroups that practice, international terrorism.

[2] For purposes of this definition, the term "noncombatant" is interpreted to include, in addition to civilians, military personnel who at the time of the incident are unarmed or not on duty. For example, in past reports we have listed as terrorist incidents the murders of the following US military personnel: the 19 airmen killed in the bombing of the Khubar Towers housing facility in Saudi Arabia in June 1996; Col. James Rowe, killed in Manila in April 1989; Capt. William Nordeen, US defense attache killed in Athens in June 1988; the two servicemen killed in the La Belle discotheque bombing in West Berlin in April 1986; and the four off-duty US Embassy Marine guards killed in a cafe in El Salvador in June 1985. We also consider as acts of terrorism attacks on military installations or on armed military personnel when a state of military hostilities does not exist at the site, such as bombings against US bases in Europe, the Philippines, or elsewhere.

The US Government has employed these definitions of terrorism for statistical and analytical purposes since 1983.

Domestic terrorism is a more widespread phenomenon than international terrorism. Because international terrorism has a direct impact on US interests, it is the primary focus of this report. Nonetheless, the report also describes, but does not provide statistics on, significant developments in domestic terrorism.

NOTE

Adverse mention in this report of individual members of any political, social, ethnic, religious, or national group is not meant to imply that all members of that group are terrorists. Indeed, terrorists represent a small minority of dedicated, often fanatical, individuals in most such groups. It is those small groups-and their actions-that are the subject of this report.

Furthermore, terrorist acts are part of a larger phenomenon of politically inspired violence, and at times the line between the two can become difficult to draw. To relate terrorist events to the larger context, and to give a feel for the conflicts that spawn violence, this report will discuss terrorist acts as well as other violent incidents that are not necessarily international terrorism.

Michael A. Sheehan
Acting Coordinator for Counterterrorism

THE YEAR IN REVIEW

There were 273 international terrorist attacks during 1998, a drop from the304 attacks we recorded the previous year and the lowest annual total since1971. The total number of persons killed or wounded in terrorist attacks,however, was the highest on record: 741 persons died, and 5,952 personssuffered injuries.

- Most of these casualties resulted from the devastating bombings in August of the US Embassies in Nairobi, Kenya and Dar es Salaam, Tanzania. In Nairobi, where the US Embassy was located in a congested downtown area, 291 persons were killed in the attack, and about 5,000 were wounded. In Dar es Salaam, 10 persons were killed and 77 were wounded.
- About 40 percent of the attacks in 1998–111-were directed against US targets. The majority of these—77—were bombings of a multinational oil pipeline in Colombia, which terrorists regard as a US target.
- Twelve US citizens died in terrorist attacks last year, all in the Nairobi bombing. Each was an Embassy employee or dependent:
  - —Marine Sgt. Jesse N. Aliganga, Marine Security Guard detachment
  - —Julian L. Bartley, Sr., Consul General
  - —Julian L. Bartley, Jr., son of the Consul General
  - —Jean Rose Dalizu, Defense Attache's Office
  - —Molly Huckaby Hardy, Administrative Office
  - —Army Sgt. Kenneth Ray Hobson, II, Defense Attache's Office
  - —Prabhi Kavaler, General Services Office
  - —Arlene Kirk, Military Assistance Office
  - —Mary Louise Martin, Centers for Disease Control and Prevention

—Air Force Senior Master Sgt. Sherry Lynn Olds, Military AssistanceOffice
—Michelle O'Connor, General Services Office
—Uttamlal Thomas Shah, Political Section

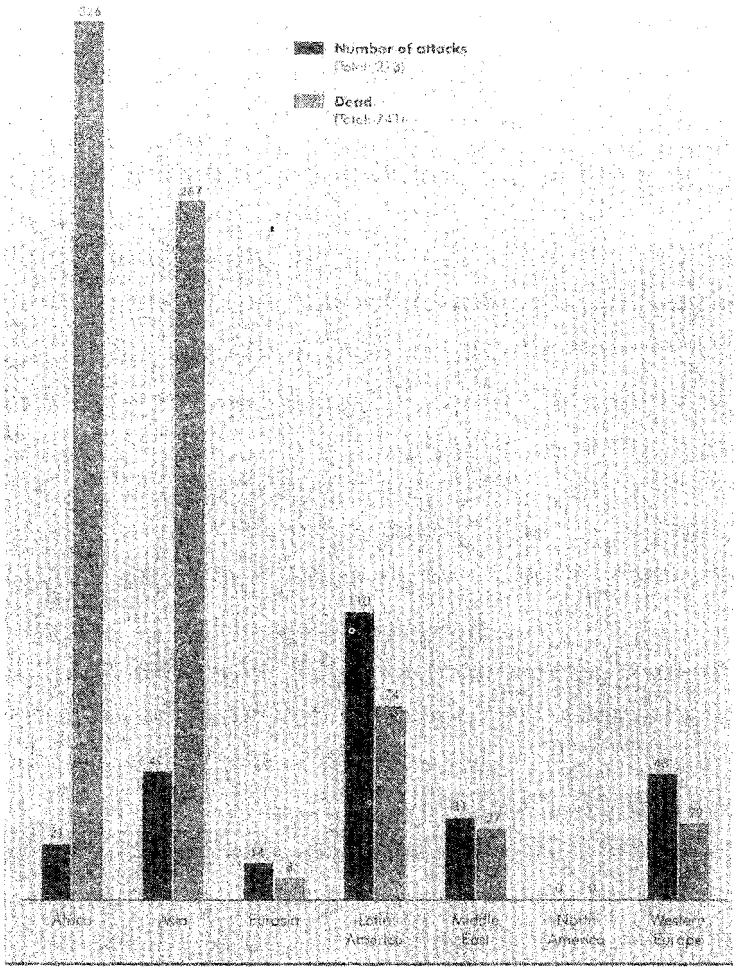
- Eleven other US citizens were wounded in terrorist attacks last year, including six in Nairobi and one in Dar es Salaam.
- Three-fifths—166—of the total attacks were bombings. The foremost type of target was business related.

There were no acts of international terrorism in the United States in 1998.There were successful efforts to bring international terrorist suspects to justice, however, in several important cases:

- On 4 November indictments were returned before the US District Court for the Southern District of New York in connection with the two US Embassy bombings in Africa. Charged in the indictment were: Usama Bin Ladin, his military commander Muhammad Atef, and al-Qaida members Wadih El Hage, Fazul Abdullah Mohammed, Mohammed Sadeek Odeh, and Mohamed Rashed Daoud al-Owhali. Two of these suspects, Odeh and al-Owhali, were turned over to US authorities in Kenya and brought to the United States to stand trial. Another suspect, Mamdouh Mahmud Salim, was arrested in Germany in September and extradited to the United States in December. On 16 December five others were indicted for their role in the Dar es Salaam Embassy bombing: Mustafa Mohammed Fadhil, Khalfan Khamis Mohamed, Ahmed Khalfan Ghailani, Fahid Mohommed Ally Msalam, and Sheikh Ahmed Salim Swedan. (See box on Usama Bin Ladin on page 29.)
- In June, Mohammed Rashid was turned over to US authorities overseas and brought to the United States to stand trial on charges of planting a bomb in 1982 on a Pan Am flight from Tokyo to Honolulu that detonated, killing one passenger and wounding 15 others. Rashid had served part of a prison term in Greece in connection with the bombing until that country released him from prison early and expelled him in December 1996, in a move the United States called "incomprehensible." The nine-count US indictment against Rashid charges him with murder, sabotage, bombing, and other crimes in connection with the Pan Am explosion.
- Three additional persons convicted in the bombing of the World Trade Center in 1993 were sentenced last year. Eyad Mahmoud Ismail Najim, who drove the explosive-laden van into the World Trade Center, was sentenced to 240 years in prison and ordered to pay $10 million in restitution and a $250,000 fine. Mohammad Abouhalima, who was convicted as an accessory for driving his brother to the Kennedy International Airport knowing he had participated in the bombing, was sentenced to eight years in prison. Ibrahim Ahmad Suleiman received a 10-month sentence on two counts of perjury for lying to the grand jury investigating the bombing.
- In May, Abdul Hakim Murad was sentenced to life in prison without parole for his role in the failed conspiracy in January 1995 to blow up a dozen US airliners over the Pacific Ocean. Murad received an additional 60-year sentence for his role and was fined $250,000. Ramzi Ahmed Yousef, who was convicted

previously in this conspiracy and for his role in the World Trade Center bombing in 1993, is serving a life prison term.

Total International Attacks, 1998



AFRICA OVERVIEW

The murderous and near-simultaneous bombing attacks on the US Embassies in Nairobi, Kenya and Dar es Salaam, Tanzania on 7 August 1998 caused more casualties than any other terrorist attack during the year. In Nairobi, where the US Embassy was located in a congested downtown area, the attack killed 291 persons and wounded about 5,000. The bombing in Dar es Salaam killed 10 persons and wounded 77.

These attacks clarified more than ever that terrorism is a global phenomenon. In the months since the bombings, evidence has emerged of terrorist networks involved in potential anti-US activity in a number of African nations.

In addition, state sponsors of terrorism, particularly Libya, are increasing significantly their activities in Sub-Saharan Africa.

ANGOLA

In late April, National Union for the Total Independence of Angola (UNITA) guerrillas kidnapped two Portuguese citizens from thecommune of Ebangano. The two have not been found.

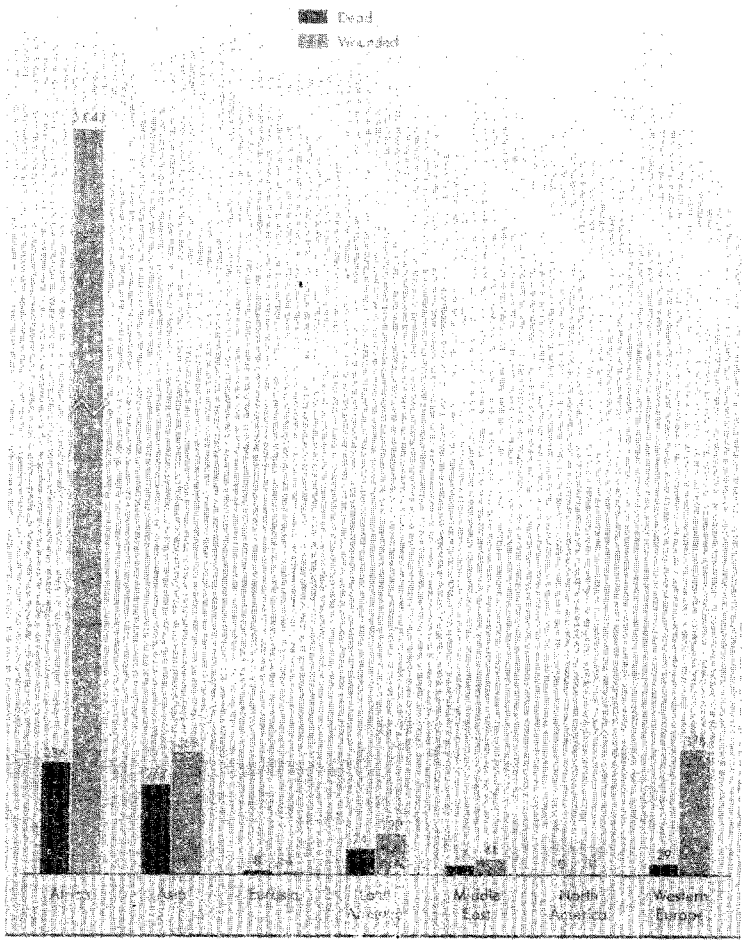
UNITA rebels fired on a United Nations Mission to Angola (MONUA) vehicle near Calandula on 19 May. The attack killed an Angolan official working for MONUA and wounded two foreigners.

On 23 March and 22 April, separatists from the Cabinda Liberation Front-Cabindan Armed Forces (FLEC-FAC) kidnapped three Portuguese citizens working for Mota and Company, a Portuguese construction firm. FLEC-FAC claimed it took the workers hostage to force Portugal to pressure the Angolan Government to leave Cabinda.

On 9 November more than 100 suspected UNITA rebels overran the Canadian-owned Yetwene diamond mine in eastern Angola, killing eight individuals-including two British nationals, one Portuguese, and five Angolans-and wounding at least 22 persons. The gunmen took four workers hostage: a South African, a British national, and two Filipinos.

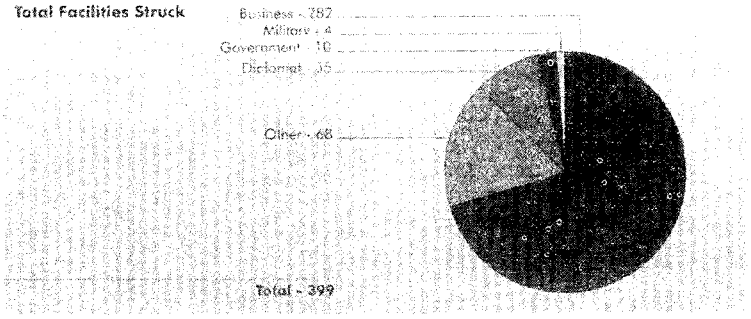
Total Casualties Caused by International Attacks, 1998

Note scale break

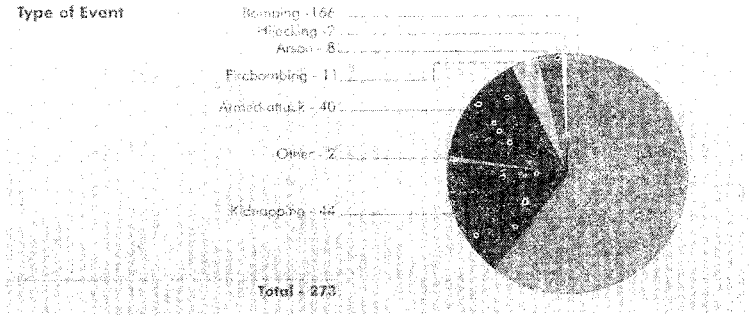


Total International Attacks, 1998

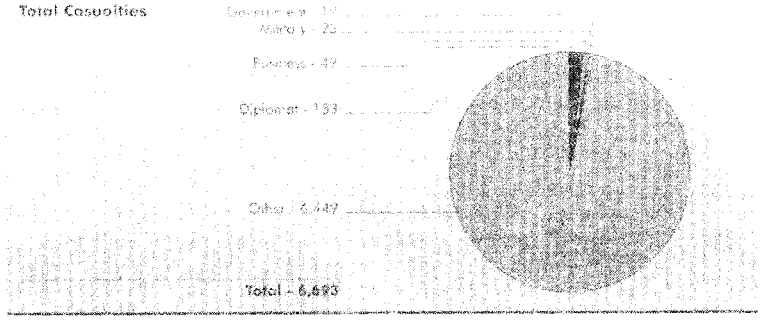
Total Facilities Struck



Type of Event



Total Casualties



CENTRAL AFRICAN REPUBLIC

A small bomb detonated on 27 November outside the walls of the French Embassy, causing only minor damage.

CHAD

On 3 February armed rebels of the Union of Democratic forces kidnapped four French citizens in Manda National Park. The four were released unharmed five days later. On 22 March a group calling itself the National Front for the Renewal of Chad took six French and two Italian nationals hostage in the Tibesti region. Chadian forces freed all but one hostage within hours. The militants announced they would not release the last hostage until all French troops and Western oil firms left Chad. Five days later Chadian security forces freed the last hostage.

DEMOCRATIC REPUBLIC OF CONGO

On 12 August gunmen seized a tour group sightseeing along a nature trail in the Ruwenzori Range of western Congo. The tourists—one Canadian, two Swedes, and three New Zealanders—were abducted after they crossed from Uganda into the Congo. A previously unknown group, the People in Action for the Liberation of Rwanda, claimed responsibility for the abduction. Local authorities believe the gunmen are former Rwandan soldiers who fled to Congo after the former regime was forced from power in 1994. Two New Zealanders escaped one week later, and the Canadian was released on 19 August. The other victims still are missing.

ETHIOPIA

On 25 February rebels of the Ogaden National Liberation Front took an Austrian national hostage as she traveled from Gode to Denan. She was released in mid-April after the rebels determined that she "was not a spy for the Ethiopian Government."

An Islamic group based in Somalia, al-Ittihad al-Islami, claimed responsibility for kidnapping six International Committee of the Red Cross workers in the eastern Ogaden region of Ethiopia on 25 June. Al-Ittihad said the abducted workers—one Swiss national and five ethnic Somalis—were spies. The six were released unharmed on 10 July even though al-Ittihad found them "guilty of conducting business outside of their duties."

KENYA

On 7 August a car bomb exploded behind the US Embassy, killing 291 persons and wounding about 5,000. The majority of the casualties were Kenyan citizens. Twelve US citizens died, and six were injured in the attack. A group calling itself the "Islamic Army for the Liberation of the Holy Places" immediately claimed responsibility for the attacks in Nairobi and a near-simultaneous explosion in Dar es Salaam, Tanzania. US officials believe the group is a cover name used by Usama Bin Ladin' al-Qaida organization. Indictments were returned in the US District Court for the Southern District of New York charging Usama Bin Ladin and 11 other individuals for these and other terrorist acts against US citizens. At year end, four of the indicted—Wadih El Hage, Mohamed Rashed

Daoud al-Owhali, Mamdouh Mahmud Salim, and Mohammed Sadeeck Odeh—were being held in New York, while Khalid al-Fawwaz remained in the United Kingdom pending extradition to the United States. The other suspects remain at large. The Government of Kenya cooperated closely with the United States in the criminal investigation of the bombing. On 20 August, President Clinton amended Executive Order 12947 to add Usama Bin Ladin and his key associates to the list of terrorists, thus blocking their US assets—including property and bank accounts—and prohibiting all US financial transactions with them.

NIGERIA

On 11 November a mob of angry youths abducted eight Shell Oil workers in Bayelsa. The hostages included three US citizens, one British citizen, one Croatian, one Italian, one South African, and one Nigerian. The youths demanded jobs and economic development projects for their community. After talks with the oil firm, all eight hostages were released unharmed on 18 November.

SIERRA LEONE

Revolutionary United Front (RUF) militants commanded by S.A.F. Musa kidnapped an Italian Catholic missionary from his residence in Kamalo on 15 November. In exchange for the hostage' release, Musa demanded medical supplies, a satellite phone, and contact with his family, who are being detained by regional peacekeeping forces in the capital. At year end, talks between the RUF and the government were at a standstill.

SOUTH AFRICA

An explosion on 25 August in the entrance of the US-franchised Planet Hollywood restaurant in Cape Town killed one person and injured at least two dozen others, including nine British citizens. Muslims Against Global Opression (MAGO), a front organization for the Islamic radical groups People Against Gangsterism and Drugs (PAGAD) and Qibla, initially claimed responsibility but then denied involvement. Local authorities believe that PAGAD members masterminded the attack in retaliation for the US bombings of terrorism-related targets in Sudan and Afghanistan.

PAGAD, a vigilante group that first appeared in August 1996, conducted a series of violent attacks against criminal elements and moderate Muslim leaders in Cape Town last year. Though police are investigating PAGAD members aggressively, none has been convicted for these crimes.

SOMALIA

On 15 April militant Somali clansmen took nine foreign nationals hostage after their aircraft landed at a north Mogadishu airstrip. The hostages included one US citizen, a German, a Belgian, a Frenchman, a Norwegian, and two Swiss. The two pilots, a South African and a Kenyan, also were held. The clansmen demanded $100,000 ransom. The kidnappers released the hostages unharmed on 24 April without receiving any ransom, however, after the international community pressured the kidnappers' leaders.

TANZANIA

Terrorists associated with Usama Bin Ladin' al-Qaida organization detonated an extremely large truck bomb outside the US Embassy in Dar es Salaam on 7 August, just as another truck bomb exploded outside the US Embassy in Nairobi. The blast killed 10 Tanzanians, including seven local Embassy employees, and injured 77 persons, including one US citizen. Tanzanian authorities cooperated closely with the United States in the criminal investigation of the bombing.

UGANDA

Unidentified assailants on 4 April detonated bombs at two downtown Kampala restaurants, the Nile Grill and the outdoor cafe at the Speke Hotel, killing five persons—including Swedish and Rwandan nationals—and wounding six others. The Ugandan Government suspects that Islamic militants of the Allied Democratic Forces are responsible.

On 8 July a United Nations World Food Program worker was killed when rebels of the Uganda National Rescue Front II fired a rocket-propelled grenade at his truck while he was driving in northwestern Uganda.

Rebels of the Lord' Resistance Army attacked a civilian convoy traveling along a major corridor in the north on 27 November, killing seven persons and wounding 28 others.

ASIA OVERVIEW

The overall number of terrorist incidents in East Asia decreased in 1998. Individual countries still suffered terrorist attacks and endured continued terrorist group activities, however.

In Cambodia, the last remnants of the weakened Khmer Rouge (KR) virtually disbanded in 1998, and two of the group's top three leaders came out of hiding to surrender. Earlier in the year, KR elements committed two acts of international terrorism that caused 12 deaths. The US Secretary of State has designated the KR a foreign terrorist organization pursuant to the Antiterrorism and Effective Death Penalty Act of 1996.

In Japan, the Aum Shinrikyo religious cult, accused of attacking the Tokyo subway system with sarin gas in March 1995, increased its membership and business activity in 1998. Prosecution of cult leaders continues at a sluggish pace. In June a Lebanese court rejected appeals by five imprisoned Japanese Red Army members; Japan has asked that they be deported to Japan upon completion of their three-year jail terms. Both groups are designated foreign terrorist organizations pursuant to the Antiterrorism and Effective Death Penalty Act of 1996.

The Philippines experienced violent attacks in the southern province of Mindanao from rebels in the Moro Islamic Liberation Army (MILF), the New Peoples Army (NPA), and the Abu Sayyaf Group (ASG). The government began negotiations with the MILF that showed little progress in 1998. The ASG experienced a major setback in December when its leader was killed during a government ambush. Other incidents, including attacks on rural police posts

around the country and kidnappings of foreign nationals, occurred in 1998.

In Thailand, a strong military offensive against Muslim separatists of the New Pattani United Liberation Organization (New PULO)—in cooperation with Malaysia—helped restore calm in the south, which had experienced a wave of bombings in January. The Thai Supreme Court overturned the conviction of Hossein Dastgiri, an Iranian charged in 1994 with plotting to bomb the Israeli Embassy in Bangkok.

In South Asia, the Taliban has made Afghanistan a safehaven for international terrorists, particularly Usama Bin Ladin. The United States made it clear to the Taliban on numerous occasions that it must stop harboring such terrorists. Despite US engagement of the Taliban in an ongoing dialogue, its leaders have refused to expel Bin Ladin to a country where he can be brought to justice.

In 1998 the United States continued its efforts to ascertain the fate of the four Western hostages—including one US citizen—kidnapped in India's Kashmir in 1995 by affiliates of the Harakat-ul-Ansar (HUA). Despite ongoing cooperative efforts between US and Indian law enforcement authorities, we have been unable to determine their whereabouts. The HUA was designated a foreign terrorist organization in 1997 pursuant to the Antiterrorism and Effective Death Penalty Act of 1996.

In Pakistan, sectarian violence continues to affect lives and property. In Karachi and elsewhere in the Sindh and Punjab Provinces, clashes between rival ethnic and religious groups reached dangerously high levels. As in previous years, there were continuing credible reports of official Pakistani support for Kashmiri militant groups that engage in terrorism.

In Sri Lanka, the government continues to battle the Liberation Tigers of Tamil Eelam (LTTE). Designated a foreign terrorist organization in 1997 pursuant to the Antiterrorism and Effective Death Penalty Act of 1996, the LTTE has continued its attempts to gain a Tamil homeland through a campaign of violence, intimidation, and assassination. By targeting municipal officials and civilian infrastructure and conducting random attacks, the LTTE seeks to force the government to meet to its demands. The Government of Sri Lanka is pursuing a two-track policy of fighting the Tigers and building support for its ambitious package of political reforms aimed at addressing many of the Tamil minority's grievances. Recent military setbacks may push the government toward negotiations, but the LTTE has shown no willingness to move in this direction.

AFGHANISTAN

Islamic extremists from around the world—including large numbers of Egyptians, Algerians, Palestinians, and Saudis—in 1998 continued to use Afghanistan as a training ground and a base of operations for their worldwide terrorist activities. The Taliban, which controls most of the territory in Afghanistan, facilitated the operation of training and indoctrination facilities for non-Afghans and provided logistical support and sometimes passports to members of various terrorist organizations. Throughout 1998 the

Taliban continued to host Usama Bin Ladin, who was indicted in November for the bombings in August of two US Embassies in East Africa.

CAMBODIA

Weakened by defections and internal discord, the last remnants of the Khmer Rouge virtually disbanded in 1998 following 30 years of civil war and terror. The KR suffered significant losses in 1998, including the death of leader Pol Pot in April. During crackdowns in August, the government arrested Nuon Paet, a former KR fugitive suspected of ordering the execution of three European tourists after holding them hostage for two months in 1994. By late December the last main fighting unit of the KR had surrendered, including two of the group's top three leaders: Khieu Samphan and Nuon Chea.

Before fragmenting, Khmer Rouge elements committed two acts of international terrorism in 1998. In January, KR militants reportedly placed a handgrenade near the Vietnamese military attache's office in Phnom Penh. In April, KR forces murdered 12 Vietnamese nationals at a fishing village near Tonle Sap lake.

INDIA

Security problems persisted in India in 1998 because of ongoing insurgencies in Kashmir and the northeast. Kashmiri militant groups stepped up attacks against civilian targets in India's Kashmir and shifted their tactics from bombings to targeted killings, including the massacres of Kashmiri villagers. In April the massacres spilled over to Udhampur district, where 28 villagers died in two simultaneous attacks. Elsewhere in India, election-related violence at the beginning of 1998 claimed more than 150 lives. In an effort to disrupt a Bharatiya Janata Party rally on 14 February, Islamic militants in Coimbatore conducted a series of bombings that killed 50 and wounded more than 200.

The Indian and Pakistani Governments each claim that the intelligence service of the other country sponsors bombings on its territory. The Government of Pakistan acknowledges that it continues to provide moral, political, and diplomatic support to Kashmiri militants but denies allegations of other assistance. Reports continued in 1998, however, of official Pakistani support to militants fighting in Kashmir.

JAPAN

Three years after the sarin nerve gas attack on the Tokyo subway system in March 1995, the prosecution of high-level Aum Shinrikyo religious cult leaders—including cult founder Shoko Asahara—continues. Press reports indicate that, if it maintains its current sluggish pace, the trial could take 30 years to complete. Japanese security officials reported a rise in Aum Shinrikyo membership and business activity in 1998, despite a severe police crackdown on the group following the sarin attack. The United States designated Aum Shinrikyo a foreign terrorist organization in 1997 pursuant to the Antiterrorism and Effective Death Penalty Act of 1996.

On 3 June the highest criminal court in Lebanon rejected an appeal made by five convicted Japanese Red Army members and endorsed their three-year prison sentence for forgery and illegal residency. Tokyo has asked that they be deported to Japan upon completion of their jail terms.

PAKISTAN

Sectarian and political violence surged in Pakistan in 1998 as Sunni and Shia extremists conducted attacks against each other, primarily in Punjab Province, and as rival wings of an ethnic party feuded in Karachi. The heightened political violence prompted the imposition of Governor's rule in Sindh Province in October. According to press reports, more than 900 persons were killed in Karachi from January to September, the majority by acts of domestic terrorism.

In the wake of US missile strikes on terrorist training camps in Afghanistan, several Pakistani-based Kashmiri militant groups vowed revenge for casualties their groups suffered. At a press conference held in Islamabad in November, former Harakat ul-Ansar and current Harakat ul-Mujahidin (HUM) leader Fazlur Rehman Khalil reportedly vowed: "We will kill one hundred Americans for one Muslim." Other Kashmiri and domestic Pakistani sectarian groups also threatened to target US interests. The leader of the Lashkar-i-Taiba declared a jihad against the United States, and the leader of the Lashkar-i-Jhangvi vowed publicly to kill US citizens and offered his support to Bin Ladin.

Pakistani officials stated publicly that, while the Government of Pakistan provides diplomatic, political, and moral support for"freedom fighters" in Kashmir, it is firmly against terrorism and provides no training or materiel support for Kashmiri militants. Kashmiri militant groups continued to operate in Pakistan, however, raising funds and recruiting new cadre. These activities created a fertile ground for the operations of militant and terrorist groups in Pakistan, including the HUA and its successor organization, the HUM.

PHILIPPINES

The new government of President Joseph Estrada continued the previous administration's attempts to reach a peaceful settlement with rebels of the Moro Islamic Liberation Front. In August the two sides pledged to begin substantive talks in September. By year-end, however, little progress had been made toward ending the conflict, and both sides continued to engage in low-level violence. The Communist New People's Army also was active in 1998, conducting a series of attacks on rural police posts throughout the country.

Clashes between government forces and various insurgent groups were particularly violent in the southern province of Mindanao. In this remote region the Philippine Armed Forces sporadically engaged militants of the MILF and the smaller, more extremist Abu Sayyaf Group. These periodic military sweeps appear to have weakened both groups. The ASG, in particular, suffered a major setback in late December when government security forces killed its leader during an ambush.

Islamic insurgents were responsible for several international terrorist incidents in the Philippines in 1998. In early September, suspected MILF and ASG militants conducted a rash of kidnappings of foreign nationals, including three Hong Kong businessmen and an Italian priest. Two months later, one group of rebels freed the Italian after 100 MILF fighters surrounded the rebels' jungle hideout and forced his release.

SRI LANKA

The Liberation Tigers of Tamil Eelam conducted significant levels of terrorist activity in 1998. The LTTE attacked government troops, bombed economic and infrastructure targets, and assassinated political opponents. An LTTE suicide vehicle bombing at the Temple of the Tooth in Kandy in January 1998 killed the three suicide bombers and 13 civilians—including three children—and injured 23. The LTTE's deadliest terrorist act in 1998 was a vehicle bomb explosion in the Maradana district of Colombo in March that killed 36 persons—including five schoolchildren—and wounded more than 250.

The LTTE assassinated several political and military officials in 1998. In May a suicide bomber killed a senior Sri Lankan Army commander, Brigadier Larry Wijeratne. Three days after that attack, armed gunmen assassinated newly elected Jaffna Mayor S. Yogeswaran—a widow of an LTTE-assassinated Tamil politician—in an attack claimed by the Sangilian Force, a suspected LTTE front group. In July an LTTE mine explosion killed Tamil parliamentarian S. Shanmuganathan, his son, and three bodyguards. In September an LTTE bomb planted in a Jaffna government building killed new Jaffna Mayor P. Sivapalan and 11 others.

During the year, the LTTE conducted numerous attacks on infrastructure and commercial shipping. In the first half of 1998 the LTTE bombed several telecommunications and power facilities in Sri Lanka. In August the LTTE stormed a Dubai-owned cargo ship, the Princess Kash, which was carrying food, concrete, and general supplies to the Jaffna Peninsula. The Tigers took hostage the 21 crewmembers—including 16 Indians—but released the Indians five days later.

"Operation Sure Victory," the Sri Lankan military's ground offensive aimed at reopening and securing a ground supply route through LTTE-held territory in northern Sri Lanka, continued through 1998. The offensive ended in December about 40 kilometers short of its goal. The Sri Lankan military immediately initiated a new offensive in the same area.

The Sri Lankan Government strongly supported international efforts to address the problem of terrorism in 1998. Colombo was quick to condemn terrorist attacks in other countries and has raised terrorism issues in several international venues, including the UN General Assembly in New York and the UN High Commission for Refugees in Geneva. Sri Lanka was the first country to sign the International Convention for the Suppression of Terrorist Bombings at the United Nations in January.

There were no confirmed cases of LTTE or other terrorist groups targeting US interests or citizens in Sri Lanka in 1998. Nonetheless, the Sri Lankan Government was quick to cooperate with US

requests to enhance security for US personnel and facilities and cooperated fully with US officials investigating possible violations of US law by international terrorist organizations. Sri Lankan security forces received training in explosive incident countermeasures, vital installation security, and post-blast investigation under the US Anti-Terrorism Assistance Program.

THAILAND

On February 18 the Thai Supreme Court overturned the conviction of Iranian Hossein Dastgiri, who had been prosecuted for a plot in 1994 to bomb the Israeli Embassy in Bangkok. The court ruled that conflicting eyewitness testimony failed to demonstrate beyond a reasonable doubt that Dastgiri was the driver of the bomb-laden truck. In southern Thailand, Muslim separatists of the New Pattani United Liberation Organization conducted a series of bombings in January. Thai authorities launched a military counteroffensive in mid-January that netted several PULO militants. These arrests, combined with unprecedented assistance from Malaysia, where PULO militants had traditionally found refuge, helped to restore calm in the south.

EURASIA OVERVIEW

In Russia, several prominent local officials were killed and some US and Russian citizens were kidnapped in Chechnya and the North Caucasus region. At least some of the killings appeared politically motivated, including the assassination of Russian State Duma deputy Galina Starovoytova and Shadid Bargishev, head of the Chechen antikidnapping squad. Some Chechen insurgents have links to terrorist Usama Bin Ladin.

Georgian President Eduard Shevardnadze survived an assassination attempt by supporters of a former president in 1998. The arrest of some of his attackers provoked further incidents and led to Russian cooperation in the arrest and extradition of an individual alleged to have conspired in planning the attack. The breakaway region of Abkhazia witnessed the abduction of four UN military observers in July and the ambush and wounding of UN observers in September.

The Kazakhstan Government averted a potential threat to the US Embassy in Almaty by arresting and expelling three Iranian Government agents for illegal activities. Four members of a United Nations mission of observers to Tajikistan were killed while on patrol 150 kilometers outside of Dushanbe. Of the various terrorist incidents that occurred in Tajikistan in 1998, this was of greatest concern to the international community.

ARMENIA

On 1 April local US Embassy guards discovered and safely disarmed a handgrenade outside the US Ambassador's residence. There was no claim of responsibility.

GEORGIA

Supporters of deceased former Georgian President Zviad Gamsakhurdia, known as "Zviadists," and ethnic Chechen merce-

naries attempted to assassinate Georgian President Eduard Shevardnadze on 9 February. The assailants launched a well-organized attack against Shevardnadze's motorcade late in the evening using rocket-propelled grenades and automatic weapons. Shevardnadze survived the attack—the second against him in three years—but it almost succeeded. Two officers of Shevardnadze's protective service and one of the attackers, an ethnic Chechen, died in the ensuing gunfight. The government arrested 11 of the assailants within days of the attack.

Subsequently, some 15 of Shevardnadze's assailants kidnapped four United Nations observers from their compound in Zugdidi, western Georgia, to ensure the assailants' escape and their colleagues' release. The hostages escaped or were released following a dialogue between the Shevardnadze government and former members of Gamsakhurdia's faction. Some of the hostage takers surrendered, but Gocha Esebua, the Zviadist leader of the assassination team, escaped. According to press reports, Georgian police killed Esebua in a shootout on 31 March after they tracked him to a house in western Georgia.

Georgian officials also apprehended former Gamsakhurdia government Finance Minister Guram Absandze, the alleged mastermind of the assassination attempt. Russian security authorities detained Absandze in Smolensk, Russia, on 16 March and extradited him to Georgia three days later, where he was formally arrested.

Violence in Georgia's breakaway region of Abkhazia accounted for several incidents that involved foreign personnel. In July four UN military observers were taken hostage. On 21 September three UN military observers and their Abkhaz driver were wounded in Sukhumi during an ambush on a clearly marked UN vehicle, according to press reporting. Two of the injured were military observers from Bangladesh, and the third victim was a UN employee from Nigeria.

KAZAKHSTAN

During 1998 the United States and Kazakhstan cooperated to avert potential security threats to the US Embassy in Almaty. In February, Committee for National Security (KNB) authorities arrested—and subsequently expelled—three Iranian Ministry of Intelligence and Security agents for illegal activities. The Government of Kazakhstan did not publicize details of the Iranian agents' activities or prosecute them before their expulsion, however. The US Government and the Government of Kazakhstan signed a joint statement on combating terrorism in November.

KYRGYZSTAN

According to press reports, Kyrgyzstani security authorities alleged that Islamic extremists, vaguely identified as "Wahhabis," conducted two bombings in 1998 in Osh, Kyrgyzstan's second-largest city located in the Fergana Valley. On 30 May an explosion occurred in a public minibus, killing two persons and wounding 10, while an explosion in an apartment the next day killed two persons. The motive behind the explosions was unclear because of insufficient information. Nonetheless, Wahhabism, a fundamentalist

Sunni Islamic sect originating in Saudi Arabia, never has been widespread in Kyrgyzstan.

RUSSIA

The assassination on 20 November of noted reformist and Russian State Duma deputy Galina Starovoytova by unidentified assailants—possibly a politically motivated contract killing—highlights both the terrorist tactics used by domestic antagonists to influence Russian politics and Moscow's inability to curb this violence. Chechen militants assassinated Shadid Bargishev, head of the Chechen antikidnapping squad, on 25 October in reaction to widely publicized antikidnapping operations in Chechnya's capital, Groznyy. No one claimed responsibility for an explosive device that detonated under Chechen President Aslan Maskhadov's car in June. Maskhadov escaped without injury, but four others were killed in the attack.

At least three US citizens were kidnapped in Russia for financial gain in 1998. On 18 March unknown assailants abducted two US missionaries in Saratov, Russia, took their money and bank cards, and released them on 22 March. No ransom appears to have been paid. On 11 November in Makhachkala, Dagestan, unidentified assailants kidnapped US citizen Herbert Gregg, a member of a nondenominational Protestant organization based in Illinois. Russian authorities continue to investigate the incident.

Numerous abductions occurred in Russia's North Caucasus region during 1998. Most involved ransom demands, although political motives cannot be excluded. Some Chechen groups in 1998 used kidnapping to raise money, and hostages could be sold and resold among various Chechen kidnapping groups, according to Russian officials. Several foreigners and hundreds of Russian civilians and soldiers kidnapped in the region still are missing. On 20 January, Vincent Cochetel, a French citizen who led the United Nations Human Rights Commission's North Caucasus office, was abducted. He finally was released on 12 December. Four British employees of Granger Telecom were kidnapped in early October and on 8 December were found murdered. On 1 May, Valentin Vlasov, President Boris Yeltsin's representative to Chechnya, was kidnapped by unknown assailants. He was released on 13 November.

Mujahidin with extensive links to Middle Eastern and Southwest Asian terrorists aided Chechen insurgents with equipment and training. The insurgents were led by Habib Abdul Rahman, alias Ibn al-Khattab, an Arab mujahidin commander with links to Usama Bin Ladin. Khattab's forces launched attacks against Russian military targets, but their activities in Russia were localized in the North Caucasus region.

TAJIKISTAN

Security for the international community in Tajikistan did not improve significantly in 1998, as a number of criminal and terrorist incidents—including bombings, assaults, and murders—took place. The most serious incident occurred on 20 July when attackers shot and killed four members of the United Nations mission of observers to Tajikistan while on patrol some 150 kilometers east of Dushanbe. Tajikistani authorities later arrested three former

Tajikistani opposition members, who initially confessed to the killings but later recanted.

In September the US State Department ordered the suspension of Embassy operations in Dushanbe. The decision was made because of threats to US facilities worldwide following the US Embassy bombings on 7 August in East Africa, turmoil in Tajikistan, and the Embassy's limited ability to secure the safety of US and foreign personnel in the facility.

EUROPE OVERVIEW

The number of terrorist incidents declined in Europe in 1998, in large part because of increased vigilance by security forces and the recognition by some terrorist groups that longstanding political and ethnic controversies should be addressed in negotiations. Terrorism in Spain was attributable almost entirely to the Basque Fatherland and Liberty (ETA) group. In Turkey, most incidents were related to the Kurdistan Workers' Party (PKK). In Greece, a variety of anarchist and terrorist groups continued to operate with virtual impunity. The deadliest terrorist act occurred in Omagh, Northern Ireland, when a splinter Irish Republican Army (IRA) group exploded a 500-pound car bomb that killed 29 persons, including children.

In Northern Ireland, the Catholic and Protestant communities made a major commitment to end the violence by signing the Good Friday Accord. Under the leadership of the British and Irish Governments, both communities and the political parties that represent them agreed to compromises that are to create new, local governmental institutions for resolving conflicts and turn away from terrorism as an accepted political instrument. In support of the peace process, most paramilitary terrorist groups on both nationalist and loyalist sides agreed to a cease-fire. The issue of "decommissioning" the IRA's weaponry and bombs continued to complicate the process, however.

In Spain, the terrorist ETA declared a cease-fire on 16 September to provoke negotiations with the central government. Public outrage throughout Spain over the ETA assassinations of several local Spanish officials earlier in 1998 and the government's infiltration and dismantling of several ETA "commandos" in recent years prompted the group's cease-fire. Strong French legal pressure also eroded the ETA's support base in neighboring French provinces.

The Turkish Government's threat to act against PKK safehavens in neighboring Syria led Damascus to expel PKK leader Abdullah Ocalan, who for years had been directing PKK terrorist activities from his villa there. Ocalan's departure and subsequent flight to seek a new safehaven left the PKK in some disarray, although its members conducted several deadly suicide bombings in Turkey after his departure from Syria.

The Greek Government's counterterrorist efforts remained ineffective. The Revolutionary Organization 17 November group struck six times in early 1998, and several other groups claimed responsibility for bombings in various locations in Greece. The Greek Government has not arrested a single 17 November member in the 23 years since the group killed its first victim, a US Embassy employee; the group subsequently eliminated 22 other persons.

In Germany, the remnants of the Red Army Faction (RAF) announced the dissolution of their organization, once among the world's deadliest. The declaration suggested that the remaining members realized their terrorist group had lost its purpose.

ALBANIA

Albania took an active stance against international terrorism in 1998 by launching a campaign of arrests and investigations against suspected Egyptian Islamic Jihad (EIJ) terrorists operating in the capital, Tirana. In late June, Albanian security forces captured four Egyptian extremists and rendered them immediately to Egypt. Despite public EIJ threats, Albanian police continued to pursue the group. In October security forces raided an EIJ safehouse, killing one suspected terrorist.

While these examples demonstrate the government's commitment to fight terrorism, Albania's poor internal security provides an environment conducive to terrorist activity.

BELGIUM

Belgian police arrested 10 suspected Armed Islamic Group (GIA) members in March during raids in Brussels. Police seized false documents, detonators, and some small caliber weapons. During a follow-up raid, police uncovered explosives in a GIA supporter's home. The arrests were part of a joint security operation with France, Britain, Sweden, and Italy before the World Cup soccer match in Paris.

In April, Belgium prosecuted three suspected GIA members for the grenade attack in December 1995 on two police officers in Bastogne. Two suspects, Kamel Saddeddine and Youssef El Majda, were convicted and sentenced to five years in prison. The other, Ah El Madja, also was convicted and sentenced to serve three years.

FRANCE

French authorities initiated a large-scale security effort across Europe before France hosted the World Cup soccer match last summer. In late May police apprehended about 100 suspected Algerian GIA members during simultaneous operations in France, Germany, Italy, Belgium, and Switzerland. Antiterrorism magistrate Jean-Louis Bruguiere described the coordinated effort as a "preventive" measure to protect the games.

In 1998, French authorities brought numerous terrorists to justice for past acts of violence. In September, French prosecutors began a mass trial of 138 Algerian terrorists for a wave of bombings committed in 1995 and 1996. Controversy marred the two-month trial, however, and more than 50 politicians signed a petition denouncing the proceedings as unfair and racist. Those convicted received sentences ranging from four months to 10 years.

In late November, France prosecuted eight suspected members of Algeria's Islamic Salvation Front (FIS) on charges of smuggling arms to terrorists. The suspects allegedly belong to a network headed by FIS leader Djamel Lounici, currently under house arrest in Italy pending trial. A French court already has sentenced

Lounici in absentia to five years in prison for arms smuggling in another case concerning Morocco.

GERMANY

The Red Army Faction announced its "self-dissolution" in April, following more than two decades of struggle against the German Government. Meanwhile, German courts continued to adjudicate cases against RAF members for terrorist acts committed in the 1980s.

German police took an active stance against terrorism in 1998. Acting on a request from the United States, they detained Salim Mamdouh Mahmud, an associate of Usama Bin Ladin, in September and extradited him to the United States in December. In the weeks before the World Cup soccer match, they worked closely with the French to disrupt Algerian terrorist networks in Germany.

On the judicial front, the trial of five suspected terrorists continued for their part in the La Belle discotheque bombing in 1986 in Berlin. Controversy has plagued the trial from the start, and at the current pace a verdict is not expected before the year 2000.

The German Government showed less resolve in November when PKK leader Abdullah Ocalan arrived unannounced in Rome. Germany withdrew its longstanding international arrest warrant for the Kurdish terrorist leader after PKK militants threatened riots and violence in German cities if Ocalan were prosecuted there. The German action effectively precluded Ocalan's extradition from Italy.

GREECE

The majority of the international terrorist incidents committed in Europe in 1998 occurred in Greece. Most of these attacks were firebombings that numerous leftist and anarchist groups conducted against businesses and Greek Government offices. The government made arrests in connection with only one attack.

Greece's most deadly terrorist group, the Revolutionary Organization 17 November, claimed responsibility for six attacks against US or US-related businesses in Athens between February and April, including a rocket attack on a Citibank office. As in the past, Greek efforts failed to achieve any tangible success against 17 November terrorists. To augment their counterterrorism capability, Greek officials met in September with FBI Director Louis Freeh. The discussions improved Greek cooperation with US law enforcement agencies.

In January an Athens appeals court denied Italy's petition to extradite Enrico Bianco, a former Red Brigades member whom Greek police arrested in November 1997 and subsequently freed. Bianco continues to live freely in Greece.

Greek relations with Turkey remained tense as numerous members of the Greek Parliament continued to court PKK members. In April some Greek parliamentarians attended a reception hosted by the PKK's political wing, the ERNK. At the reception a self-proclaimed PKK representative announced plans to open an office in Athens under the PKK's rubric. Greek officials interceded to prevent the opening.

In November, 109 Greek parliamentarians-mostly from the governing PASOK party-signed a letter reiterating a standing invitation to PKK leader Abdullah Ocalan to visit Greece. The Greek Government distanced itself from the invitation, saying Ocalan was not welcome. In November, Ocalan arrived in Rome at the beginning of what became an odyssey to gain asylum in Europe. (After his capture in Nairobi in February 1999, it became known that Ocalan had transited Greece at least twice during his travels with the knowledge and assistance of highly placed Greek officials. At one point, Ocalan remained in Greece for several days. Senior Greek officials took responsibility for providing Ocalan with haven in the Greek Embassy residence in Kenya in February 1999.)

ITALY

On 12 November, PKK leader Abdullah Ocalan arrived unexpectedly in Rome and requested political asylum. He initially was detained there on an international warrant issued by Germany. Italy declined to act on a Turkish extradition request, citing Turkey's long-unused capital punishment statute, which prohibits extradition to countries with capital punishment. Italy also declined to exercise its option under international law to prosecute Ocalan. After Bonn withdrew the warrant, the Italians told Ocalan he was free to leave. After trying unsuccessfully to find a country willing to take him, Italian officials said he no longer was welcome in Italy. Ocalan eventually left for Russia, with the apparent assistance of Italian officials, beginning an odyssey that culminated in his seizure in Kenya in February 1999.

In October police arrested five Islamic terrorists in Turin for weapons violations and reported links to Usama Bin Ladin. The next month police arrested suspected GIA terrorist Rahid Fetter in Milan on charges of forgery, counterfeiting, and membership in a subversive organization. The Italians accused Fetter of providing shelter, funds, and false identification papers to GIA militants.

LATVIA

A series of bomb attacks in the Latvian capital, Riga, targeted Russian and Jewish interests in 1998. On 2 April a bomb exploded in the courtyard of the main Jewish synagogue in Riga's historic Old Town. The blast caused extensive damage to the main entrance and a swastika-adorned Latvian flag was found on the scene, according to press reporting. On 5 April a mine exploded in a park across the street from the Russian Embassy in Riga. The explosion did not damage the Embassy, but it shattered the windows of four Embassy vehicles. These incidents, which occurred late at night, caused no casualities. There were no claims of responsibility, but authorities suspect members of Eduard Limonov's Russian National Bolshevist Party, a Russian ultranational group. On 19 October, Israeli officials discovered a mail bomb during a routine check of packages mailed to the Israeli Embassy in Riga. Latvian authorities safely destroyed the device.

SPAIN

The terrorist group Basque Fatherland and Liberty announced a unilateral and unconditional cease-fire on 16 September. At year-end the cease-fire was holding. ETA has not renounced terrorism and continued to engage in terrorist activity before the cease-fire. In 1998, the ETA killed six persons, compared with 13 in 1997. On 3 November, President Aznar called for direct talks with ETA to make the cease-fire permanent, but the two sides appear to have differing agendas for the talks. The government is offering some measures of relief for 530 ETA prisoners in Spanish jails and an estimated 1,000 exiles, while ETA wants to include political issues of sovereignty and self-determination.

The Spanish Government energetically and successfully has sought extradition of ETA fugitives from some countries, including France and several Latin American nations. A Spanish request for extradition from the United States of accused ETA terrorist Ramon Aldasoro was delayed in 1998, but on 4 February 1999 the US Court of Appeals for the Eleventh Circuit in Atlanta paved the way for Aldasoro's extradition.

In addition to ongoing police and law enforcement action to break up ETA commandos and arrest their members, the Spanish Government in 1998 undertook a series of measures designed to debilitate ETA's financial infrastructure. These measures included attempts to limit ETA's fundraising capabilities, shut down businesses with ETA involvement, and locate ETA's financial assets. In July the government shut down the pro-ETA newspaper Egin.

The leftwing terrorist First of October Anti-Fascist Resistance Group (GRAPO) reemerged in 1998 after a three-year hiatus. The government discounts GRAPO's operational capability, but the organization claimed responsibility for a number of bombings and sent extortion letters to businessmen.

TURKEY

Turkey achieved some notable successes in its battle against terrorism in 1998, especially against the PKK, its foremost terrorist group. Turkey continued its vigorous campaign against the PKK in southeastern Turkey and northern Iraq. Turkey's large-scale military offensives appear to have affected greatly the PKK's ability to operate in Turkey. In March, Turkish military commandos captured Semdin Sakik, the PKK's second in command, in northern Iraq and bought him to Turkey. Turkish security forces launched a series of successful military campaigns in late spring and early fall that hampered PKK activity in southeast Turkey. In October, Turkey applied intense pressure on the Syrian Government to discourage Syrian support for the PKK. As a result, Syria forced PKK leader Ocalan to leave. Ocalan fled to Russia and then on to Italy where he requested political asylum. Italy subsequently refused to extradite Ocalan to Turkey and Ocalan left Italy. (Turkey scored a major coup against PKK terrorism in February 1999, when Turkish officials tracked down Ocalan in Nairobi, captured him, and brought him back to Turkey to stand trial.)

During 1998 the PKK continued to conduct acts of violence against military and civilian targets. On 10 April, PKK terrorists

on a motorcycle threw a bomb into a park near the Blue Mosque in Istanbul. The explosion injured two Indians, a New Zealander, and four Turkish citizens. The PKK also continued its campaign of kidnappings in southeast Turkey. In early June, PKK terrorists kidnapped a German tourist and a Turkish truckdriver at a roadblock in Karakose. The German tourist was found unharmed the next morning near the kidnapping site, but the truckdriver still is missing. Immediately after Ocalan's arrest in Italy, the PKK conducted three suicide bombings in southeastern Turkey, which killed three persons and injured dozens of Turkish citizens, despite Ocalan's public renunciation of terrorism.

Several extreme leftist and other groups were active in Turkey in 1998. Leftist groups operating in Turkey include the Revolutionary People's Liberation Party/Front, Turkish Workers' and Peasants' Liberation Army, Turkish Peoples' Liberation Army, and the Turkish Peoples' Liberation Front. Fundamentalist Islamic organizations operating in Turkey include the so-called "Turkish Hizballah," the Islamic Movement Organization, and the Islamic Great Eastern Raiders Front. Effective Turkish security measures appear to have reduced the threat from these fringe groups over the years. For example, on 31 December, Turkish police arrested the head of the Islamic Great Eastern Raiders Front, Salih Mirzabeyoglou, in Istanbul.

UNITED KINGDOM

In April feuding Catholic and Protestant parties signed the landmark Good Friday Accord. This historic agreement outlined a comprehensive power-sharing arrangement between both communities in a multiparty administration of Northern Ireland. For the first time, the Irish Republican Army's political wing, Sinn Fein, was allowed to join the new administration, as long as its leaders remained committed to "exclusively peaceful means." Both sides hotly debated the meaning of this and other provisions in the accord following the signing. The most contentious issue was whether the IRA would abandon its weapons and bombs. Notwithstanding the IRA's commitment to uphold its cease-fire, several splinter groups continued to engage in terrorist activity.

As the debates wore on over the summer, Ireland suffered its worst single terrorist act. On 15 August terrorists from one of the splinter groups, the self-styled Real IRA, exploded a 500-pound car bomb outside a courthouse in downtown Omagh, killing 29 persons and injuring more than 330 others. This attack followed another terrorist bombing by the Real IRA in Banbridge on 1 August, which injured 35 persons and damaged approximately 200 homes.

By November the accord appeared on the verge of collapse as neither side could come to agreement on key issues. Both sides worked vigorously to jump-start negotiations by Christmas so that the new government could take power by February 1999. Only one paramilitary group-one of Northern Ireland's most vicious, the Loyalist Volunteer Force-willingly has surrendered a cache of weapons. Both sides viewed the group's disarmament as a sign that a breakthrough in the stalled peace accord was possible. The IRA continued to resist what it labels a "surrender" of its arms, however,

while in its view the conditions that caused the conflict remain unresolved.

The United Kingdom continued to cooperate closely with the United States on counterterrorism issues in 1998. In September, British authorities arrested Khalid al-Fawwaz, a Saudi national, who is wanted by the United States for conspiring to murder US citizens between January 1993 and September 1998. Al-Fawwaz remains in British custody pending his extradition to the United States.

LATIN AMERICA OVERVIEW

Colombia's principal insurgent groups, the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN), stepped up attacks against security forces and civilians in 1998, despite a budding peace process with the Colombian Government. They continued to conduct kidnapping, bombing, and extortion campaigns against civilians and commercial interests.

Bogota pursued peace negotiations while guerrillas launched a concerted offensive against police and military bases throughout the country. By yearend, the government had completed the demilitarization of five municipalities as an incentive for talks, which began in January 1999.

In March, FARC commanders announced they would target US military personnel assisting Colombian security forces, but insurgent attacks—including intensified operations against police and military bases—did not harm US forces. Colombian terrorists continued to target private US interests, however. Guerrillas kidnapped US citizens in Colombia and northern Ecuador, and the FARC refused to account for the whereabouts of three missionaries it kidnapped in January 1993. Guerrillas also continued to bomb US commercial interests, such as oil pipelines and small businesses.

Arrests in Peru contributed to the steady decline in Sendero Luminoso (SL) and Tupac Amaru Revolutionary Movement (MRTA) terrorist capabilities. Peruvian officials arrested two of the four original members of SL's Central Emergency Committee, which comprises the SL's top leaders. The SL failed uncharacteristically to commemorate Peru's Independence Day in July with even a low-level attack or to disrupt municipal elections in October. The MRTA did not launch a terrorist attack in 1998, continuing a trend of relative inactivity since the hostage crisis at the Japanese Ambassador's residence in Lima ended in April 1997.

Switzerland denied Chile's request for the extradition of a terrorist from the dissident wing of the Manuel Rodriguez Patriotic Front, who escaped from a maximum security prison in Santiago in December 1996.

In the triborder area, Argentina, Brazil, and Paraguay consolidated efforts to stem the illicit activities of individuals linked to Islamic terrorist groups. The three countries consulted closely on enforcement efforts and actively promoted regional counterterrorist cooperation.

The Government of Argentina hosted an Organization of American States conference on terrorism and gained the participants'

commitment to form a regional commission on counterterrorist initiatives.

ARGENTINA

Investigations continued into the two devastating bombings against Jewish and Israeli targets in Buenos Aires: the attack in March 1992 against the Israeli Embassy in Buenos Aires, in which 29 persons died, and the bombing in July 1994 of the Argentine Israeli Mutual Association (AMIA) building that killed 86 persons and injured hundreds more. Islamic Jihad, Hizballah's terrorist arm, claimed responsibility for the attack in 1992. No clear claim for the AMIA bombing has been made, although the two attacks had many similarities. At yearend, Argentine authorities questioned two possible key informants in the attacks.

The Iranian Government expelled the Argentine commercial attache from Tehran in early 1998 in response to growing criticism in Argentina about a possible official Iranian role in the attacks. The Argentine Government responded by asking Tehran to reduce the number of diplomats in its mission in Buenos Aires to one, the number of official Argentines left in Iran. The judge responsible for the AMIA investigation interviewed Iranian defectors in Western Europe and the United States who claimed to have knowledge about the bombing. He also charged an Argentine citizen with providing the stolen vehicle used in the bombing. Several former Buenos Aires provincial police officials remain in custody for their role in supplying the vehicle.

In August, Argentine authorities arrested two SL members living in Argentina. At yearend, they were awaiting extradition to Peru.

Argentina, Brazil, and Paraguay cooperated actively in the triborder region against terrorism and continued their work to counter criminal activities of individuals linked to Islamic terrorist groups. In March the three countries signed a plan to improve security in the triborder area and created a commission to oversee implementation of the plan.

In late November, Argentina hosted the second Inter-American Specialized Conference on Terrorism in Mar del Plata. Conference participants agreed to recommend that the Organization of American States' General Assembly form an Inter-American Committee on Terrorism to coordinate regional cooperation against terrorism.

CHILE

The Swiss Government denied Chile's extradition request for Patricio Ortiz Montenegro, a member of the Manuel Rodriguez Patriotic Front dissident wing who escaped from prison in Santiago on 30 December 1996, because it was concerned that Chile would not safeguard Ortiz's physical and psychological well-being. Chilean authorities continued to pursue the whereabouts of the three other terrorists who escaped with Ortiz.

COLOMBIA

The incipient peace process in Colombia did not inhibit the guerrillas' use of terrorist tactics. The FARC and ELN continued to fund their insurgencies by protecting narcotics traffickers, con-

ducting kidnap-for-ransom operations, and extorting money from oil and mining companies operating in the Colombian countryside.

Colombian insurgents began an offensive against security forces in the summer and retained their military momentum at yearend. The Colombian Government demilitarized five municipalities to meet FARC conditions for peace negotiations, and in mid-December the FARC leader agreed to meet Colombia's President on 7 January 1999 to set the agenda for talks.

FARC commanders announced in March that they would target US military personnel assisting Colombian security forces. The guerrillas did not act on these threats, and their heightened attacks against Colombian police and military bases did not target or incidentally kill or injure US forces.

Colombian terrorists continued to target private US interests, kidnapping seven US citizens in 1998. The FARC abducted four US birdwatchers in March at a FARC roadblock; one escaped and the terrorists released the three others in April. Also in March, the FARC kidnapped one retired US oil worker and released him in September. ELN terrorists in September released one US citizen held since February 1997. The ELN kidnapped two other US citizens in northern Ecuador in October; one hostage escaped, and the kidnappers released the other in late November. The FARC has not accounted for the whereabouts of three missionaries it kidnapped in January 1993.

Terrorists also continued to bomb US commercial interests, such as oil pipelines and small businesses, raising costs to US companies operating in Colombia. There were 77 pipeline bombings during the year. In October the ELN bombed Colombia's central oil pipeline—used by US companies—causing a massive explosion that killed 71 persons, including 28 children. An ELN commander subsequently announced that, despite the unanticipated death toll, the guerrillas would continue to target the nation's oil infrastructure to prevent the foreign "looting" of Colombia's wealth.

PANAMA

Alleged terrorist Pedro Miguel Gonzalez won the Democratic Revolutionary Party (PRD) candidacy for a seat in the National Assembly. Gonzalez, whose father heads the ruling PRD, was acquitted of the murder in 1992 of US serviceman Zak Hernandez in a Panamanian trial characterized by irregularities and political manipulation. The US case against Gonzalez and one other suspect remains open, and the US Embassy in Panama continues to raise the issue with senior Panamanian authorities.

Panamanian authorities made no arrests in connection with the bombing in 1994 of a commuter airline that killed 21 persons, including three US citizens. US law enforcement agencies continued to investigate the case actively but still had not determined whether the bombing was politically motivated or tied to drug traffickers.

PERU

Peruvian law enforcement and judicial authorities continued to arrest and prosecute members of the SL and MRTA terrorist groups. In 1998 they arrested Pedro Quinteros Ayylon and Jenny Maria Rodriguez Neyra, two of the four original members of SL's

25-person Central Emergency Committee who still were at large. The Peruvian Government also captured Andres Remigio Huarnan Ore, leader of the MRTA military detachment in the Chanchanmayo Valley, and most of that unit's members.

Peru extradited Peruvian citizen Cecilia Nunez Chipana, a Sendero Luminoso militant, from Venezuela. The Peruvian Government also requested the extradition from Argentina of Peruvian nationals Julio Cesar Mera Collazo and Maria del Rosano Silva, two SL members accused of murder. At yearend the extradition request was pending in Buenos Aires.

Both groups failed to launch a significant terrorist operation in Lima in 1998 and generally limited their activities to low-level attacks and propaganda campaigns in rural areas. The SL continued to attack police stations and other government targets in the Peruvian countryside and in August conducted a particularly brutal attack in Sapasoa, killing the mayor and three of his supporters at a rally. The SL did not commemorate Peru's Independence Day or disrupt municipal elections in October with its characteristic terrorist violence. The MRTA had not engaged in major terrorist activities since the end of the hostage crisis at the Japanese Ambassador's residence in Lima in April 1997.

MIDDLE EAST OVERVIEW

Middle Eastern terrorist groups and their state sponsors continued to plan, train for, and conduct terrorist acts in 1998, although their actions cumulatively were less lethal than in 1997. The lower level of fatalities resulted from more effective counterterrorist measures by various governments and from the absence in 1998 of the kinds of major incidents that had killed dozens the previous year, such as the attack on Luxor temple in Egypt and a series of HAMAS suicide bombings in public places in Israel. The most dramatic terrorist acts attributed to Middle Eastern terrorists in 1998 actually occurred in Africa, where Usama Bin Ladin's multinational al-Qaida network bombed the US Embassies in Nairobi and Dar es Salaam.

In Egypt, government security forces scored some successes in reducing violence by Islamist opponents, particularly the al-Gama'at al-Islamiyya, which had conducted the lethal attack on tourists at Luxor in 1997. Judicial proceedings brought convictions against many terrorists. Deaths from terrorism-related incidents in 1998 fell to 47, fewer than one-third the number in 1997. Nonetheless, there was troubling evidence of a growing collaboration in other countries between Egyptian extremists—from both the Gama' and the Egyptian al-Jihad—and Usama Bin Ladin.

The Algerian Government also made progress in combating domestic terrorism in 1998, undertaking aggressive counterinsurgency operations again the Armed Islamic Group (GIA) that slowed the GIA's campaign of indiscriminate violence against civilians. As the GIA's bloody tactics drew increasing criticism both inside and outside Algeria, other militants joined the unilateral cease-fire that the Islamic Salvation Army had declared in late 1997.

Palestinian groups opposed to the peace process mounted terrorist attacks in Israel, the West Bank, and Gaza. HAMAS con-

ducted car bombings, shootings, and grenade attacks—injuring dozens of civilians—while two terrorists belonging to the Palestine Islamic Jihad (PIJ) launched a suicide bombing at a Jerusalem market. Both Israel and the Palestinian Authority conducted raids and arrests that undercut the extremists' ability to inflict as many fatalities as in previous years.

Security conditions in Lebanon improved in 1998, but the lack of complete government control in parts of Beirut, portions of the Bekaa Valley, and the so-called Israeli security zone in southern Lebanon enabled numerous terrorist groups to operate with relative impunity. Hizballah, HAMAS, the PIJ, and the Popular Front for the Liberation of Palestine—General Command (PFLP-GC) used camps in Lebanon for training and operational planning. The conflict in southern Lebanon between Lebanese armed groups and Israel and its local allies continued unabated.

In Yemen, foreign and indigenous extremists in 1998 conducted several bombings and numerous kidnappings, including the abduction and subsequent release of more than 60 foreign nationals. A group calling itself the Islamic Army of Aden claimed responsibility for the seizure of 16 Western tourists. The terrorists killed four of the hostages when Yemeni Government security forces tried to free them.

Iran, Syria, Libya, and Iraq all persisted in their direct and indirect state sponsorship of terrorism. In most cases, this support included providing assistance, training, or safehaven to terrorist groups opposed to the Middle East peace process. In some cases, particularly Iran and Iraq, it also included targeting dissidents and opponents of these authoritarian regimes for assassination or harassment.

ALGERIA

The Government of Algeria in 1998 made progress in combating domestic terrorism, which has claimed approximately 75,000 lives since Islamic extremists began their violent campaign to overthrow the government in 1992. The government intensified its counterinsurgency operations against the Armed Islamic Group, and several militant groups in 1998 joined the unilateral cease-fire declared by the Islamic Salvation Army (AIS)—the armed wing of the Islamic Salvation Front (FIS)—in October 1997. The GIA also suffered a number of setbacks to its networks in Europe. No foreign nationals were killed in acts of terrorism in Algeria during the year.

The GIA continued to conduct terrorist operations in Algeria in 1998, targeting a broad spectrum of Algerian civilians. The worst incident of 1998 occurred on 11 January during the holy month of Ramadan, when GIA extremists massacred numerous civilians in Sidi Hamed. Official estimates put the death toll at more than 100 civilians; press accounts reported the death toll even higher. Other smaller civilian massacres and acts of violence also continued throughout the year.

The seemingly indiscriminate and horrific violence against civilians—including women and children—was condemned widely in domestic and international circles and eroded Islamist support for the group abroad. The GIA's campaign of attacking civilians also exac-

erbated internal divisions: dissident GIA leader Hassan Hattab in May publicly criticized GIA faction leader Antar Zouabri for his attacks on civilians and in September formally separated from the GIA. Hattab created a new element, the Salafi Group for Call and Combat, aimed primarily at attacking security force elements. Despite the split from Zouabri, Hattab's faction continued to commit violence in Algeria throughout 1998. Hattab claimed responsibility for assassinating the popular Berber singer Matoub Lounes in June, an act that further alienated the Algerian public.

BAHRAIN

Minor security incidents continued to plague Bahrain in 1998. Bahraini security forces in November arrested several Bahraini and Lebanese citizens, seizing weapons and explosives, in connection with a plot to attack public facilities and other installations in Bahrain. Bahraini Prime Minister Shaykh Khalifa claimed the operation was planned in Lebanon, where members of the group reportedly had received military training. Some of those arrested allegedly also confessed to conducting arson attacks.

Bahrain continued in 1998 to seek the extradition of eight individuals—including five in the United Kingdom—who were convicted in absentia in November 1997 for orchestrating and funding from abroad a campaign aimed at disrupting Bahraini security.

EGYPT

The number of deaths in 1998 from terrorist-related incidents fell to 47, fewer than one-third of the tally for 1997 and the lowest since 1992. Egyptian security forces increased security and counterterrorist operations against Egyptian extremists, particularly al-Gama'at al-Islamiyya, following its attack in November 1997 at Luxor that killed 58 foreign tourists and four Egyptians. Trials of Egyptian extremists responsible for various terrorist acts were held throughout the year, resulting in several convictions. The improving security situation led tourism to increase in 1998. Egypt also hosted in October an Interpol conference that promoted international cooperation in the fight against terrorism. Egypt also worked closely with other Arab countries in counterterrorism efforts, pursuant to an agreement reached among Arab interior ministers earlier in the year.

Despite the intensified security and counterterrorist actions following the Luxor incident, Egyptian extremists—particularly al-Jihad—continued to levy threats against Egypt and the United States for the arrests and extradition in 1998 of their cadre from Albania, Azerbaijan, South Africa, Italy, and the United Kingdom. Both al-Jihad and al-Gama'at al-Islamiyya signed terrorist sponsor Usama Bin Ladin's fatwa in February that called for attacks against US civilians, although al-Gama'at publicly denied that it is a member of Bin Ladin's World Islamic Front for the Jihad Against the Jews and Crusaders. Al-Gama'at leaders imprisoned in Egypt followed the lead of imprisoned Shaykh Umar Abd al-Rahman, issuing a public statement in early November that called for the cessation of operations in Egypt and urged al-Gama'at to create a "peaceful front." Gama'at leaders abroad endorsed the idea but em-

phasized they would continue to target US interests and support the jihad.

ISRAEL, THE WEST BANK, AND GAZA STRIP

Violence and terrorism by Palestinian groups opposed to the peace process continued in 1998, albeit at a reduced level as compared with the previous two years. HAMAS alone launched more than a dozen attacks over the year. Among the more notable were grenade attacks in Hebron in September that injured 25 persons and in Beersheva in October that injured more than 50. A HAMAS car bomb in the Gaza Strip in late October killed one Israeli soldier and injured several schoolchildren. The PIJ attempted a car bombing in November in Jerusalem that killed only the two militants.

Other serious attacks against Israel and its citizens also occurred, including the shooting deaths of two settlers on guard duty in early August and the assassination of a prominent rabbi in Hebron later that month. Small bomb explosions in Tel Aviv in August and in Jerusalem in September wounded a total of 13 Israelis.

For its part, Israel continued vigorous counterterrorist operations, including numerous arrests and seizures of weapons and explosives. In one of the most significant actions of the year, Israeli forces on 10 September raided a farmhouse near Hebron, killing two leading HAMAS terrorists, Adil and Imad Awadallah.

The Palestinian Authority (PA), which is responsible for security in Gaza and most major West Bank cities, continued to act against Palestinian perpetrators of anti-Israeli violence. The PA's security apparatus preempted several attacks over the year, including a planned HAMAS double-suicide bombing staged from the Gaza Strip in late September. The PA launched several large-scale arrest campaigns targeting individuals with ties to terrorist organizations and detained several leading HAMAS and PIJ political figures. In one of the more significant operations of the year, the PA in late September uncovered a HAMAS bomb lab filled with hundreds of kilograms of explosives. At the same time, more PA effort is needed to enhance its bilateral cooperation with Israel and its unilateral fight against terrorism.

In late October, the PA and Israel signed the Wye River Memorandum, which includes a number of provisions for increased security cooperation.

JORDAN

There were no major international terrorist attacks in Jordan in 1998, but several low-level incidents kept security forces focused on combating the terrorist threat. In February, amid rising tensions over Iraqi weapons inspections, the British Embassy in Amman was the target of a firebomb attack that caused no damage. Between mid-March and early May, the Reform and Defiance Movement—a small, mostly indigenous radical Islamic group—conducted a string of small bombings in Amman targeting Jordanian security forces, the Modern American School, and a major hotel. These attacks caused minor property damage.

Amman continued to maintain tight security along its borders and to interdict and prosecute individuals caught smuggling weapons and explosives, primarily intended for Palestinian rejectionist

groups in the West Bank. In September, Amman convicted two Jordanians of possession of illegal explosives with the intent to commit terrorist acts and sentenced them to 15 years in prison with hard labor. The two reportedly had planned to attack Israelis in Israel or the West Bank. In October the state prosecutor referred to the security court the case of six men accused of possessing and selling of explosives to support terrorist aims.

Jordan permitted and monitored the limited presence of several Palestinian rejectionist groups, including HAMAS, the PIJ, the Democratic Front for the Liberation of Palestine, Popular Front for the Liberation of Palestine (PFLP), and the Popular Front for the Liberation of the Palestine-General Command. The Jordanian Government allowed the HAMAS Political Bureau to maintain a small information office in Amman as well as personal offices for senior HAMAS members who live in Jordan, several of whom are Jordanian citizens. In 1998, Jordan did not permit known members of the group's military wing to reside or operate in country, however. In November, Jordan issued a public warning to HAMAS and other rejectionist groups that it would not tolerate acts that "impede implementation" of the Wye River Memorandum.

Jordan continued to cooperate with other regional states concerning terrorist threats to the region and in April signed the multilateral Arab Anti-Terrorism Agreement. King Hussein publicly voiced support for the US-UK initiative in the Pan Am 103 case.

LEBANON

Security conditions in Lebanon continued to improve in 1998, but lack of complete government control in several areas of the country—including portions of the Bekaa Valley and Beirut's southern suburbs—and easy access to arms and explosives throughout much of the country contributed to an environment with the potential for acts of violence. The Lebanese Government did not exert full control over militia groups engaged in fighting in and near the so-called security zone occupied by Israel and its proxy militia, the Army of South Lebanon.

In these areas, a variety of terrorist groups continued to operate with relative impunity, conducting terrorist training and other operational activities. These groups include Hizballah, HAMAS, the Abu Nidal organization (ANO), the PIJ and the PFLP-GC. Hizballah presents the most potent threat to US personnel and facilities in Lebanon by an organized group. Although Hizballah has not attacked US interests in Lebanon since 1991, its animosity toward the United States has not abated, and the group continued to monitor the US Embassy and its personnel in Beirut. Hizballah leaders routinely denounced US policies in the region and sharply condemned the Wye River Memorandum between Israel and the Palestinian Authority.

One anti-US attack occurred in Lebanon in 1998. On 21 June four rocket-propelled grenades were fired at the US Embassy in Beirut from some 700 meters away, falling only a short distance from their launch site and causing no damage. The grenades were launched from a crudely manufactured firing device, suggesting that the attack was not conducted by an organized group. Lebanese authorities responded swiftly to the incident, but as of 31 Decem-

ber investigators had not determined who had conducted the attack and there were no claims of responsibility. The reason for the attack is unclear, but its occurrence two days after Lebanese Prime Minister Hariri had visited Washington suggested it was intended as a sign of displeasure with US-Lebanese relations or was an attempt to embarrass Hariri.

Lebanese citizens also were the targets of random bombings in 1998. Car bombs targeted Amal and PIJ leaders in south Lebanon in October, a resident of Sidon in July, and a Sunni mayoral candidate in west Beirut in May. Although no one was killed, these incidents illustrate the potential danger from random political violence in Lebanon.

The Lebanese Government continued to support publicly international counterterrorist initiatives, and its judiciary system made limited progress in prosecuting terrorist court cases. In early June the Lebanese Supreme Court rejected a defense appeal for a retrial of five Japanese Red Army members and endorsed the three-year prison sentence handed down last year.

SAUDI ARABIA

There were several reported threats against US interests in Saudi Arabia in 1998 but no terrorist incidents. The US Embassy in Riyadh and Consulates in Jiddah and Dhahran closed for a few days in early October after receiving information that a terrorist attack was being planned against the Embassy.

Terrorist Usama Bin Ladin, whose Saudi citizenship was revoked in 1994, continued publicly to threaten US interests in Saudi Arabia in 1998. In a press conference in Afghanistan in May, Bin Ladin declared a holy war against US forces in the Arabian Peninsula, many of whom are stationed in Saudi Arabia. The declaration followed a communiqué in February in which Bin Ladin and other terrorists called for attacks on US and allied civilians and military interests worldwide.

The investigation into the bombing in June 1996 of the Khubar Towers housing facility near Dhahran, Saudi Arabia, continued in 1998, but it has not been resolved. In that incident, a large truck bomb killed 19 US citizens and wounded more than 500 others. The Saudi Government has requested that the United States extradite Hani al-Sayegh—a Saudi national arrested by the Canadians and deported to the United States in 1997—so they may question him about his alleged role in the bombing. At the end of 1998 a decision on al-Sayegh's extradition case was pending with the US Immigration and Naturalization Service. In November, Saudi Interior Minister Prince Nayif stated publicly that Bin Ladin was not responsible for the Khubar Towers bombing or the bombing in November 1995 of the Office of the Program Manager-Saudi Arabia National Guard (OPM/ SANG) facility in Riyadh, which killed seven persons. Nayif allowed that individuals motivated by Bin Ladin could have conducted the attacks, however.

TUNISIA

There were no terrorist incidents reported in Tunisia in 1998. The Government of Tunisia remains publicly committed to countering terrorist threats, particularly from Islamic extremists. The

government continued publicly to express its opposition to international terrorism, strongly condemning the terrorist attacks in August against the US Embassies in Nairobi and Dar es Salaam. Tunis also remains concerned about Algeria's violence spilling over into Tunisia and employs strict domestic security controls to counter this threat.

Tunisia continued to participate in regional counter-terrorism efforts. In January the government hosted a meeting of Arab League interior ministers at which an agreement was reached to enhance inter-Arab counterterrorism cooperation. Tunisia agreed to extradite convicted terrorists, improve information exchanges, and strengthen control on the infiltration and travel of suspected terrorists in Arab countries.

The government continued to prosecute individuals for membership in the outlawed An-Nahda movement, which it considers a terrorist organization, although there were no reports of terrorist attacks by the group in 1998. On 2 June a Tunisian court found two Tunisian nationals guilty of assassinating Belgian Vice Premier Andre Cools in Liege in 1991 and sentenced them to 20-year prison terms.

YEMEN

A series of bombings in 1998 in Sanaa and southern Yemen caused numerous casualties and some property damage. A bombing in April at a mosque near Sanaa killed two persons and injured 27 others, including two US citizens. In response to the bombings, Yemeni authorities in August announced the arrest of several Yemeni oppositionists, alleging they were working for "foreign parties." Interior Minister Arab also blamed "foreign groups" for a bombing in September at a market in Aden that caused two deaths and 27 injuries. In August the United States warned US citizens in Yemen of a threat to US interests there, days after terrorists bombed the US Embassies in Kenya and Tanzania. Three persons were killed and several were injured in November when a car bomb exploded near the German Embassy in Sanaa.

Yemeni tribesmen kidnapped and released more than 60 foreign nationals in l998, more than three times the number abducted in 1997. The Islamic Army of Aden—a little known Islamic group that has issued anti-US threats—claimed responsibility for the kidnapping in late December of 16 Western tourists, including two US citizens. Four of the tourists died, and two others—including one US citizen—were wounded during a Yemeni Government rescue attempt that liberated the remaining hostages. Following the incident, the group issued a statement calling for the lifting of sanctions against Iraq. In addition, gunmen in December shot and wounded a US citizen working on a Dutch agricultural development project while they were attempting to hijack his car. The Yemeni Government issued a decree in August implementing severe punishment—including execution—for kidnappers and stepped up enforcement of the law on unlicensed weapons in major cities.

Continuing efforts begun in 1997, the Yemeni Government took further steps to rein in foreign extremists. Sanaa increased its security cooperation with other Arab countries and reportedly forced several foreign extremists to leave Yemen. The government also in-

stituted the requirement that Algerian, British, Egyptian, Libyan, Sudanese, and Tunisian nationals seeking entry into Yemen travel directly from their home counties. Nevertheless, the government's inability to control many remote areas continued to make the country a safehaven for terrorist groups.

OVERVIEW OF STATE-SPONSORED TERRORISM

Terrorist attacks sponsored by states have declined in recent years but remain a serious threat. With state sponsorship a terrorist group often receives safehaven, money, weapons, training, logistic support, or use of diplomatic facilities. Some of the most violent terrorist attacks on record would not have been possible without such sponsorship.

USAMA BIN LADIN

The bombings of the US Embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania on 7 August 1998 underscored the global reach of Usama Bin Ladin—a long-time sponsor and financier of Sunni Islamic extremist causes—and his network. A series of public threats to drive the United States and its allies out of Muslim countries foreshadowed the attacks. The foremost threat was presented as a Muslim religious decree and published on 23 February 1998 by Bin Ladin and allied groups under the name "World Islamic Front for Jihad Against the Jews and Crusaders." The statement asserted that it was a religious duty for all Muslims to wage war on US citizens, military and civilian, anywhere in the world.

The 17th son of Saudi construction magnate Muhammad Bin Ladin, Usama joined the Afghan resistance almost immediately after the Soviet invasion in December 1979. He played a significant role in financing, recruiting, transporting, and training Arab nationals who volunteered to fight in Afghanistan. During the war, Bin Ladin founded al-Qaida—the "Base"—to serve as an operational hub for like-minded Sunni Islamic extremists. In 1994 the Saudi Government revoked his citizenship and his family officially disowned him. He moved to Sudan in 1991 but international pressure on Khartoum forced him to move to Afghanistan in 1996.

Bin Ladin leads a broad-based, versatile organization. Suspects named in the wake of the Embassy bombings—four Egyptians, one Comoran, one Jordanian, three Saudis, one US citizen, one or possibly two Kenyan citizens, and one Tanzanian—reflect the range of al-Qaida operatives. The diverse groups under his umbrella afford Bin Ladin resources beyond those of the people directly loyal to him. With his own inherited wealth, business interests, contributions from sympathizers in various countries, and support from close allies like the Egyptian and South Asian groups that signed his so-called fatwa, he funds, trains, and offers logistic help to extremists not directly affiliated with his organization.

Bin Ladin seeks to aid those who support his primary goal—driving US forces from the Arabian Peninsula, removing the Saudi ruling family from power, and "liberating Palestine"—or his secondary goals of removing Western military forces and overthrowing what he calls corrupt, Western-oriented governments in predominantly Muslim countries. To these ends, his organization has sent trainers

throughout Afghanistan as well as to Tajikistan, Bosnia and Herzegovina, Chechnya, Somalia, Sudan, and Yemen, and has trained fighters from numerous other countries, including the Philippines, Egypt, Libya, Pakistan, and Eritrea.

Using the ties al-Qaida has developed, Bin Ladin believes he can call upon individuals and groups virtually worldwide to conduct terrorist attacks. His Egyptian and South Asian allies, for example, publicly threatened US interests in the latter half of 1998. Bin Ladin's own public remarks underscore his expanding interests, including a desire to obtain a capability to deploy weapons of mass destruction.

On 4 November indictments were returned in the US District Court for the Southern District of New York in connection with the two US Embassy bombings in Africa. Charged in the indictment were: Usama Bin Ladin, his military commander Muhammad Atef, and Wadih El Hage, Fazul Abdullah Mohammed, Mohammed Sadeek Odeh, and Mohamed Rashed Daoud al-Owhali, all members of al-Qaida. Two of these suspects, Odeh and al-Owhali, were turned over to US authorities in Kenya and brought to the United States to stand trial. Another suspect, Mamdouh Mahmud Salim, was arrested in Germany and extradited to the United States in December. On 16 December five others were indicted for their role in the Dar es Salaam Embassy bombing: Mustafa Mohammed Fadhil, Khalfan Khamis Mohamed, Ahmed Khalfan Ghailani, Fahid Mohommed Ally Msalam, and Sheikh Ahmed Salim Swedan.

Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria are the seven governments that the US Secretary of State has designated as state sponsors of international terrorism. US policy is to pressure these states to cease their support by applying a broad range of sanctions, both unilateral and multilateral. International cooperation is essential in making these sanctions work, and more needs to be done in this area.

Cuba has reduced significantly its support to leftist revolutionaries in Latin America and elsewhere, but it maintains close ties to other state sponsors of terrorism and leftist insurgent groups and continues to provide safehaven to a number of international terrorists.

Iran continues to plan and conduct terrorist attacks, including the assassination of dissidents abroad. It supports a variety of groups that use terrorism to pursue their goals—including several that oppose the Middle East peace process—by providing varying degrees of money, training, safehaven, and weapons.

Iraq provides safehaven to terrorist and rejectionist groups and continues its efforts to rebuild its intelligence network, which it used previously to support international terrorism. The leader of the Abu Nidal organization may have relocated to Baghdad in late 1998.

Libya continues to harbor two Libyan intelligence operatives charged in the United States and Scotland for the bombing in 1988 of Pan Am Flight 103. Libya's action defies UN Security Council resolutions requiring Tripoli to surrender them for trial and ignores a US-UK offer to prosecute them before a Scottish court sitting in the Netherlands. Libya also harbors six suspects in the bombing of UTA flight 772 in 1989, although French authorities

agreed to try the six in absentia. Several Middle Eastern terrorist groups continue to receive support from Libya, including the PIJ and the PFLP-GC. There is no evidence of Libyan involvement in recent acts of international terrorism, however.

Although North Korea has not been linked definitively to any act of international terrorism since 1987, it continues to provide safehaven to terrorists who hijacked a Japanese airliner to North Korea in 1970.

Sudan provides safehaven to some of the world's most violent terrorist groups, including Usama Bin Ladin's al-Qaida, Lebanese Hizballah, the PIJ, the ANO, and HAMAS. The Sudanese Government also refuses to comply with UN Security Council demands that it hand over for trial three fugitives linked to the assassination attempt in 1995 against Egyptian President Mubarak in Ethiopia.

There is no evidence of direct Syrian involvement in acts of international terrorism since 1986, but Syria continues to provide sanctuary and support for a number of terrorist groups that seek to disrupt the Middle East peace process.

CUBA

Cuba no longer actively supports armed struggle in Latin America or elsewhere. Previously, the Castro regime provided significant levels of funding, military training, arms, and guidance to various revolutionary groups across the globe. Since the collapse of the Soviet Union in 1991, Havana has been forced to reduce dramatically its support to leftist revolutionaries.

Cuba, nonetheless, continues to maintain close ties to other state sponsors of terrorism and leftist insurgent groups in Latin America. For instance, Colombia's two main terrorist groups, the FARC and the ELN, maintain representatives in Cuba. Moreover, Havana continues to provide safehaven to a number of international terrorists and US terrorist fugitives.

IRAN

Iran in 1998 continued to be involved in the planning and execution of terrorist acts. Tehran apparently conducted fewer antidissident assassinations abroad in 1998 than in 1997. Tehran continued, however, to support a variety of groups that use terrorism to pursue their goals. Despite Iranian public statements condemning certain terrorist acts or expressing sympathy for Kenyan and Tanzanian victims of the August 1998 bombings of the US Embassies in Nairobi and Dar es Salaam, Iranian support for terrorism remains in place.

Tehran is reported to have conducted several assassinations outside Iran during 1998. In June the "League of the Followers of the Sunna" accused Iranian intelligence agents of murdering an Iranian Sunni cleric, Shaikh Nureddin Ghuraybi, in Tajikistan. In September the leaders of Sipah-e-Sahaba Pakistan, a virulently anti-Shia sectarian group, accused Iran of responsibility for the murders of two of the organization's leaders, Allama Shoaib Nadeem and Maulana Habibur Rehman Siddiqui. In late November the National Council of Resistance claimed that the Iranian regime had kidnapped and killed Reza Pirzadi in Pakistan. Pirzadi

was described as a warrant officer who had been released from prison in Iran in 1996.

Members of Iran's Ministry of Security and Intelligence (MOIS) may have conducted five mysterious murders of leading writers and political activists in Iran. Late in the year, Tehran announced the discovery of an operational cell within the MOIS that it alleged operated without the knowledge of senior government officials. Tehran reportedly arrested the cell's members.

The Iranian Government stated publicly that it would take no action to enforce the fatwa on Salman Rushdie, a British citizen, which has been in effect since 1989. The Iranian Government's assurance led the UK Government to upgrade its diplomatic relations with Iran. Tehran stated, however, that revoking the fatwa is impossible since its author is deceased. Moreover, the Iranian Government has not required the Fifteen Khordad Foundation to withdraw its reward for executing the fatwa on Rushdie, and in November the Foundation increased its offer to $2.8 million.

Iran continued to provide support to a variety of terrorist groups, including the Lebanese Hizballah, HAMAS, and the Palestinian Islamic Jihad, which oppose the Middle East peace process through violence. Iran supports these groups with varying amounts of training, money, and/or weapons.

In March, a US district court ruled that Iran should pay $247 million to the family of Alisa Flatow, a US citizen killed in a PIJ bomb attack in Gaza in April 1995. The court ruled that Iran was responsible for her death because it provided funding to the PIJ, which claimed responsibility for the act. Palestinian sources said Iran supported the PIJ's claimed attack in Jerusalem in early November 1998, in which two suicide bombers injured some 21 persons.

Iran still provides safehaven to elements of the PKK, a Turkish separatist group that has conducted numerous terrorist attacks in Turkey and on Turkish targets in Europe.

Iran also provides support to North African groups. In an interview in April 1998, former Iranian president Bani Sadr accused Tehran of training Algerian fighters, among others.

Tehran accurately claims it also is a victim of terrorism. In 1998 several high-ranking members of the Iranian Government were attacked and at least two were killed in attacks claimed by the terrorist group Mujahedin-e Khalq (MEK). The MEK claimed responsibility for the killing on 23 August of Asadollah Lajevardi, the former director of Tehran's Evin Prison. It also claimed responsibility for the deaths in June of several persons, including Haj Hassan Salehi, allegedly a torturer at the prison, during a bombing attack on the Revolutionary Prosecutor's Office in Tehran.

Mohsen Rafiqdust, head of the Foundation for the Oppressed and Disabled, escaped an attack on his life on 13 September. He said counterrevolutionary elements had embarked on efforts to make the country insecure.

At least nine Iranian diplomatic and associated personnel died when unknown persons invaded the Iranian Consulate in Mazar-e Sharif, Afghanistan, in early August during the Taliban takeover of that city. The Taliban denied responsibility for the deaths.

IRAQ

In 1998, Baghdad continued efforts to rebuild its intelligence network, which it previously had used to support international terrorism. Press reports indicated that Iraqi intelligence agents may have been planning an attack against Radio Free Europe in Prague in October 1998. Other press reports citing "reliable diplomatic sources" in Amman claimed that Iraq had sent abroad for terrorist purposes intelligence agents who pretended to be refugees and businessmen. Iraqi oppositionists have claimed publicly that the regime intends to silence them and have accused Baghdad of planning to assassinate Iraqi exiles. There are various claims that the Iraqi intelligence service was responsible for the killings of some nine persons in Amman, but we cannot corroborate the charges.

In January 1998 an Iraqi diplomat was fired on in Amman, Jordan. Jordanian authorities arrested five persons who subsequently confessed responsibility. In a separate incident, eight persons—including an Iraqi diplomat—were murdered in the home of an Iraqi businessman. Jordanian authorities in April arrested several persons for this crime.

In southern Iraq, Ayatollah Morteza Borujerdi—a senior Shia cleric—was killed on 22 April. Oppositionists claimed the Iraqi Government assassinated Borujerdi because he refused to cease leading prayers. A second high-ranking Shia cleric, Ayatollah Ali Gharavi, was killed on 18 June. The oppositionist Supreme Assembly for the Islamic Revolution in Iraq accused Baghdad of responsibility. Both men were respected Shia clerics of Iranian origin and their murders remain unsolved.

Iraq continues to provide safehaven to a variety of Palestinian rejectionist groups, including the Abu Nidal organization, the Arab Liberation Front (ALF), and the former head of the now-defunct 15 May Organization, Abu Ibrahim, who masterminded several bombings of US aircraft. In December press reports indicated that Abu Nidal had relocated to Iraq and may be receiving medical treatment. Abu Nidal's move to Baghdad—if true—would increase the prospect that Saddam may call on the ANO to conduct anti-US attacks. Iraq also provides bases, weapons, and protection to the MEK, a terrorist group that opposes the current Iranian regime.

LIBYA

Despite a joint US-UK offer to prosecute the two Libyans charged with the bombing in 1988 of Pan Am Flight 103 before a Scottish court sitting in the Netherlands, Libya remained unwilling to meet the demands of UN Security Council resolutions 731, 748, 883, and 1192. These measures call upon Libyan leader Qadhafi to cease all support to terrorism, turn over the two indicted Pan Am 103 suspects for trial, and cooperate in the investigation. (On 5 April 1999, Libya turned over the two suspects, 'Abd al Basit al-Megrahi and Lamin Kalifah Fhima, for prosecution in the Netherlands under Scottish law.)

French officials in January completed their investigation into the bombing in 1989 of UTA Flight 772. The French officials believe that the Libyan intelligence service was responsible and named Qadhafi's brother-in-law, Muhammad Sanusi, as the attack's master-

mind. (Six Libyan suspects, all intelligence officers, were tried in absentia by a French court in March 1999. The suspects were convicted on 8 March 1999.)

Libya remains the primary suspect in several other past terrorist operations, including the La Belle discotheque bombing in Berlin in 1986, which killed two US servicemen, one Turkish civilian, and wounded more than 200. The trial in Germany of five defendants in the case, who are accused of "an act of assassination commissioned by the Libyan state," began in November 1997 and continued through 1998.

Despite ongoing sanctions against Libya for its sponsorship of terrorism, Tripoli in 1998 continued to harass and intimidate expatriate dissidents. Moreover, Qadhafi continued publicly and privately to support Palestinian terrorist groups, including the PIJ and the PFLP-GC. Libya has not been implicated in any international terrorist act for several years, however.

NORTH KOREA

The Democratic People's Republic of Korea has not been linked solidly to the planning or execution of an international terrorist attack since 1987, when a KAL airliner was bombed in flight. North Korea continues to provide safehaven to members of the Japanese Communist League-Red Army Faction who participated in the hijacking of a Japanese Airlines flight to North Korea in 1970. In March, P'yongyang allowed members of the Japanese Diet to visit some of the hijackers.

SUDAN

Sudan continued to serve as a meeting place, safehaven, and training hub for a number of international terrorist groups, particularly Usama Bin Ladin's al-Qaida organization. The Sudanese Government also condoned many of Iran's objectionable activities, such as funding terrorist and radical Islamic groups operating and transiting Sudan.

Sudan still has not complied fully with UN Security Council Resolutions 1044, 1054, and 1070, passed in 1996, despite the regime's efforts to distance itself publicly from terrorism. The UNSC demands that Sudan end all support to terrorists. It also requires Khartoum to hand over three Egyptian al-Gama'at fugitives linked to the assassination attempt in 1995 against Egyptian President Mubarak in Ethiopia. Sudanese officials continue to deny that they are harboring the three suspects and that they had a role in the attack.

Khartoum continues to provide safehaven to members of several of the world's most violent terrorist groups, including Lebanese Hizballah, the PIJ, the ANO, and HAMAS. Khartoum also supports regional Islamic and non-Islamic opposition and insurgent groups in Ethiopia, Eritrea, Uganda, and Tunisia.

Sudanese support to terrorists includes provision of paramilitary training, money, religious indoctrination, travel documents, safe passage, and refuge. Most of the organizations in Sudan maintain offices or other types of representation.

In August the United States accused Sudan of involvement in chemical weapons development. On 20 August the United States

conducted military strikes against the al-Shifa pharmaceutical plant in Khartoum, which was associated with Usama Bin Ladin's terrorist network and believed to be involved in the manufacture of chemical weapons, to prevent an anti-US attack. Sudan has denied that the plant was involved in chemical weapons production and vigorously has protested the US bombing.

SYRIA

There is no evidence that Syrian officials have engaged directly in planning or executing international terrorist attacks since 1986. Syria, nonetheless, continues to provide safehaven and support to several terrorist groups, allowing some to maintain training camps or other facilities on Syrian territory. Ahmad Jibril's Popular Front for the Liberation of Palestine-General Command and the Palestine Islamic Jihad, for example, have their headquarters in Damascus. In addition, Syria grants a wide variety of terrorist groups—including HAMAS, the PFLP-GC, and the PIJ—basing privileges or refuge in areas of Lebanon's Bekaa Valley under Syrian control.

In response to Turkish pressure, Damascus took several important steps against the Kurdistan Workers' Party in October. PKK leader Abdallah Ocalan departed Syria, and Damascus forced many PKK members to relocate to northern Iraq. It is unclear whether Damascus has made a long-term commitment to sever its ties to the PKK.

Although Damascus claims to be committed to the Middle East peace process, it has not acted to stop anti-Israeli attacks by Hizballah and Palestinian rejectionist groups in southern Lebanon. Syria allowed—but did not participate in—a meeting of Palestinian rejectionist groups in Damascus in December to reaffirm their public opposition to the peace process. Syria also assists the resupply of rejectionist groups operating in Lebanon via Damascus. Nonetheless, the Syrian Government continues to restrain the international activities of some groups and to participate in a multinational monitoring group to prevent attacks against civilian targets in southern Lebanon and northern Israel.

5 January

Yemen

Two Yemeni tribesmen kidnapped three South Korean citizens, including the wife and daughter of the First Secretary of the Korean Embassy, in Sanaa. The hostages were released on 9 January.

8 January

Russia

Two Swedish missionaries were kidnapped in Makhackala. An anonymous telephone caller claiming to represent the Dagestani kidnappers stated the hostages had been moved to Chechnya. The hostages were released on 24 June 1998.

14 January

Israel

A boobytrapped videocassette exploded at the Israel-Lebanon border crossing near Metulla, injuring three Israelis and three Lebanese, including the man who carried it. The Amal claimed responsibility, stating that the intended target was a senior Israeli intelligence officer.

21 January

Yemen

Armed tribesmen abducted two engineers in two separate incidents. The tribesmen released the hostages, one German and one Chinese, the next day.

25 January

India

Heavily armed masked militants attacked four Hindu families in Wandhama, on the Pakistani side of the Kashmir Line of Control, killing at least 23 men, women, and children. A lone survivor described the militants as Urdu-speaking foreigners, who first took tea with the Hindu families before opening fire. The militants also set fire to a Hindu temple and some homes.

3 February

Chad

Five armed members of a Chadian opposition group kidnapped four French nationals in Manda National park in Moyen-Chari Prefecture, releasing them unharmed on 8 February. The Union of Democratic Forces (UFD) claimed responsibility.

Greece

Bombs detonated at two McDonald's restaurants in the Halandri and Vrilissia suburbs of Athens, causing extensive damage. Authorities suspect anarchists carried out the attacks in retaliation for the arrest of the alleged leader of the Fighting Guerrilla Formation (MAS).

9 February

Yemen

Yemeni tribesmen kidnapped a Dutch tourist in Sanaa. The kidnappers demanded the release of three members of their clan who

had been arrested for stealing a United Nations vehicle. The hostage was released on 25 February.

19 February

Georgia

Armed supporters of late Georgian president Zviad Gamsakhurdia abducted four United Nations military observers from Sweden, Uruguay, and the Czech Republic. On 22 February one Uruguayan military observer was released. The remaining hostages were released after President Shevardnadze met with the Gamsakhurdia opposition on 25 February. Eight of the kidnappers were captured. (The leader, a key figure in the assault on 9 February on President Shevardnaze's motorcade, remained at large until Georgian authorities tracked him to western Georgia and killed him in a shootout on 31 March.)

19 February

Yemen

Yemeni al-Hadda tribesmen kidnapped a Dutch agricultural expert in Dhamar. The kidnappers demanded development projects in their area and released the hostage the next day.

21 February

Pakistan

Unidentified gunmen killed two Iranian engineers near the Iranian Cultural Center in Karachi. The shooting may have been conducted to mark the anniversary of the attack on 20 February 1997 on the Iranian Cultural Center in Multan.

25 February

Ethiopia

An armed group kidnapped an Austrian national as she traveled from Gode to Denan, according to press reports. The Ogaden National Liberation Front (ONLF) claimed responsibility. The ONLF released the hostage 23 March after announcing on a radiobroadcast its intent to release her.

14 March

Colombia

Revolutionary Armed Forces of Colombia (FARC) guerrillas kidnapped two French businessmen in Meta Department, according to press accounts. The hostages are brothers who run a hotel in the department. One hostage was released shortly after the abduction with a huge ransom demand by the rebels for his brother's release.

21 March

Colombia

FARC rebels kidnapped a US citizen in Sabaneta. According to multiple media sources, the hostage was released to the International Red Cross on 6 September 1998.

22 March

Chad

Gunmen kidnapped six French and two Italian nationals in the Tibesti region. Chadian forces freed all but one hostage within hours. A group called the National Front for the Renewal of Chad (FNTR) claimed responsibility in a statement to the press, saying

it would release the remaining hostage on the condition that French troops withdraw from Chad and that Western oil companies halt exploration and exploitation of all resources in Chad. On 27 March, Chadian security forces freed the last hostage.

23 March

Angola

Rebels from the Front for the Liberation of the Cabinda Enclave-Cabinda Armed Forces (FLEC-FAC) abducted two Portuguese citizens in Cabinda. The victims are employed by Mota & Company, a Portuguese construction company. The FLEC-FAC demanded $500,000 in ransom, the intervention of Portuguese authorities, and negotiations for the withdrawal of Portugal from Angola. On 24 June the FLEC-FAC released the hostages. It is not known if a ransom was paid.

Colombia

FARC rebels killed three persons, wounded 14, and kidnapped at least 27 others at a roadblock near Bogota. Four US citizens and one Italian were among those kidnapped, as well as the acting president of the National Electoral Council (CNE) and his wife. On 25 March the rebels released the CNE president and his wife. The rebels released nine of the Colombian hostages two days later. On 2 April one of the US hostages escaped his captors. On 25 April the last two hostages were released.

25 March

Colombia

At the British Petroleum oil field in Cupiagua, a bomb blast injured one US citizen and two British workers. At least one bomb was placed near the oil workers' sleeping trailers and detonated around midnight. Police blame the attack on the National Liberation Army.

Early April

Morocco

An armed Islamic group killed 10 Moroccans near the border town of Oujda in early April, according to news reports.

4 April

Uganda

The US Embassy reported that bombs exploded at two restaurants in Kampala, killing five persons—including one Swedish and one Rwandan national—and wounding at least six others. The restaurants, the Nile Grill and the cafe at the Speke Hotel, are within walking distance of the US Embassy and the Sheraton Hotel. A Ugandan Government official reported to local press that the Allied Democratic Forces may be responsible.

10 April

Turkey

Two Kurdistan Workers' Party (PKK) members on a motorcycle threw a bomb into a park near the Blue Mosque in Istanbul, according to press reports. The explosion injured two Indian tourists, one New Zealander, four Turkish civilians, and two Turkish soldiers. On 12 April authorities arrested the two PKK members involved in the attack.

15 April

Somalia

Multiple media sources reported that militiamen abducted nine Red Cross and Red Crescent workers at an airstrip north of Mogadishu. The hostages included a US citizen, a German, a Belgian, a French, a Norwegian, two Swiss, and one Somali. The gunmen are members of a subclan loyal to Ali Mahdi Mohammed, who controls the northern section of the capital. On 24 April the hostages were released unharmed, and no ransom was paid.

17 April

Cambodia

Approximately 60 armed suspected Khmer Rouge militants attacked two fishing villages on the Tonle Sap lake in Kampong Chhnang Province, killing 21 persons and wounding at least nine others, according to press accounts. Twelve of the victims were Vietnamese nationals. The attack occurred in the early morning when the victims were asleep.

Yemen

Press reported that tribesmen kidnapped a British Council official, along with his wife and son, as they traveled from Aden to Sanaa. The kidnappers released the hostages on 3 May.

18 April

India

Muslim militants attacked Barankot village in Udhampur district, Kashmir, killing 29 persons, according to press reports. Lashkar-i-Taiba claimed responsibility for the massacre.

19 April

Venezuela

Unidentified Colombian guerrillas kidnapped a Venezuelan cattleman in Los Flores hacienda. On 23 April the Venezuelan Directorate of Intelligence and Prevention Services rescued the hostage.

22 April

Angola

Suspected secessionists from the Front for the Liberation of the Cabinda Enclave abducted a Portuguese citizen and nine Angolans in Cabinda, according to press reports. The victims are employed by Mota & Company, a Portuguese construction company. The Portuguese hostage was released unharmed on 24 June.

Iraq

A gunman shot and killed an Iranian clergyman and injured his two companions in An Najaf, according to press reports. No one claimed responsibility for the attack.

23 April

Yemen

A police officer from the Al-Marakesha tribe kidnapped a Ukrainian citizen on his way to Sanaa and handed him over to the tribe, according to press reports. Tribesmen released the hostage the next day.

24 April

Yemen

A bomb exploded in the courtyard of the Al-Kheir mosque after midday prayers in Sanaa, according to US Embassy reporting. The explosion killed two persons and wounded 26 others, including two United States citizens, one Canadian, one Libyan, and several Somalis.

25 April

Colombia

FARC guerrillas kidnapped a Palestinian connected to the Palestine Liberation Organization in Bogota. The victim is a Colombian citizen who has resided in Colombia for the past 20 years. On 17 July the FARC rebels released the hostage, reportedly at the request of the International Red Cross and of a special envoy of the Palestinian Authority.

Late April

Angola

Militants thought to be from the National Union for the Total Independence of Angola (UNITA) abducted a Portuguese couple involved in trading, according to the press. An administrative source told the Angolan Press Agency that the abduction occurred after 150 armed men occupied the commune of Ebanga. UNITA does not have a history of kidnapping foreigners, and the motive is unclear.

1 May

India

A bomb exploded under a crowded bus in Shupiyan, injuring six persons, according to press reports. Muslim militants are suspected.

4 May

India

Near Manchar, east of Jammu, Kashmir, police reported that suspected Muslim militants killed four members of a village defense committee, four other villagers and one police officer.

5 May

India

Armed Islamic militants reportedly entered a home in Surankote, north of Jammu and killed four persons.

6 May

India

Suspected Muslim militants killed five Hindu family members during a funeral procession outside the town of Punch, Kashmir, according to US Embassy reports.

16 May

Colombia

Six unidentified heavily armed men kidnapped an Italian engineer near Medellin. The engineer, who was overseeing the construction of a tunnel, was taken from his car and forced to enter a taxi with the gunmen, according to police reports. Police said it was unclear whether the kidnappers were leftist guerrillas.

India

In Binola Chuora village, Kashmir, militants killed at least seven persons. According to press accounts, the victims were former mili-

tants who had become police informants or members of village defense groups opposed to the militants.

19 May

Angola

Armed assailants attacked a marked United Nations vehicle at Calandula, killing one Angolan interpreter working for the UN and wounding two other UN employees and one Angolan police officer. A UN spokesperson blamed UNITA.

22 May

Sudan

Guerrillas from the Sudan People's Liberation Army (SPLA) abducted a British contractor for the World Food Program (WFP) and held him for ransom in an SPLA-controlled area of southern Sudan, according to official sources. The victim is employed by Terra Firma and was on a survey mission for WFP when he was abducted. SPLA demanded $58,000 and 125 drums of diesel fuel. The contractor was released on 19 June.

23 May

India

A provincial legislator, his driver, a bodyguard, and three others were injured seriously when a bomb detonated on the outskirts of Srinagar, according to police reports. Their armored car was totally destroyed. Pakistani-supported Muslim militants are suspected.

26 May

Venezuela

Three armed FARC guerrillas kidnapped a Venezuelan engineer in La Victoria. On 18 June the rebels released the engineer and gave him money to travel home. The hostage told authorities that the FARC stated they intended to kidnap a businessman from that area but took him by mistake.

27 May

Colombia

In Santa Marta, 20 National Liberation Army (ELN) rebels bombed the offices of a subsidiary of the US-owned Dole company. The guerrillas overpowered the guards, gagged the employees, and destroyed files before detonating four bombs, partially destroying the headquarters. The rebels painted graffiti accusing the company owners of assisting paramilitary groups in the region. The rebels opened fire on the police as they escaped.

1 June

India

Local press reported that a bomb exploded at a busy market in the heart of Jammu, Kashmir, killing one child and injuring 19 other persons. At least 10 shops were damaged. Indian officials suspect that Muslim militants are responsible.

India

A bomb exploded at an Army base in Jammu, Kashmir, killing two civilians and damaging the Army's intelligence wing. Indian officials suspect that Muslim militants are responsible.

3 June

Turkey
Armed PKK militants kidnapped a German tourist and a Turkish truck driver at a roadblock in Agri, according to press reports. The German tourist was found unharmed the next morning near the kidnapping site, but the truck driver still is missing.

7 June

Pakistan
Police reported that a bomb ripped through an 18-car passenger train en route from Karachi to Peshawar, killing 23 persons and wounding at least 32 others, and destroying one railcar. Pakistan blames India's Research and Analysis Wing for the bombing. Indian officials deny the accusation.

18 June

Iraq
Unidentified assailants shot and killed an Iranian Shiite cleric, two of his relatives, and his driver. The victims were driving back to An Najaf after a pilgrimage to a shrine in Karbala'.

Yemen
Tribesmen kidnapped nine Italian tourists and their Yemeni driver in Husn al-Ghurab in the Bir Ali area of Mayfaah District. The tribesmen demanded the government pay them 800,000 riyals that were pledged to them in a previous agreement, compensation for a car lost in the civil war in 1994, and construction of a school and health facility in their region. The kidnappers released two elderly women and the driver on 19 June and the remaining seven hostages on 21 June.

19 June

India
Five armed militants attacked Hindu villagers in Champnari village in Jammu's Doda District, killing at least 25 persons and injuring seven others, according to police reports. The victims were members of two wedding parties. Indian officials blame Pakistani-backed Muslim militants.

21 June

Lebanon
Unknown assailants fired four rocket-propelled grenades in the direction of the US Embassy in Beirut. The rockets exploded immediately after being launched, missing the Embassy.

23 June

India
A remote-controlled bomb exploded under the Delhi-bound Shalimar Express in Kashmir, injuring at least 35 of the 2,000 passengers and derailing seven cars, according to press reports. A police spokesperson stated that Muslim militants are suspected.

25 June

Ethiopia
Six staff members of the International Committee of the Red Cross were abducted when they were traveling from Gode to Degeh Bur in three marked vehicles. The ICRC members include one Swiss national and five ethnic Somalis. On 3 July the Islamic group al-

Ittihad al-Islami claimed responsibility, stating that the hostages were under investigation for spying. On 10 July the hostages were released.

Colombia

FARC rebels kidnapped a Canadian, a Bolivian, and a Colombian citizen in Santander Department. The Bolivian citizen works for a Colombian-German firm, while both the Canadian and Colombian work for a Canadian mining company. The three men were kidnapped while driving on a rural road.

28 June

India

According to press reports, a bomb hidden in a lunchbox detonated in Achaval Gardens, a popular picnic site in Anantnag, Kashmir. Two persons were killed and at least fifteen persons were injured in the blast.

8 July

Uganda

A United Nations World Food Program (WFP) worker was killed instantly when guerrillas from the Uganda National Rescue Front II fired a rocket-propelled grenade at his WFP truck.

14 July

Colombia

FARC rebels kidnapped an Ecuadorian citizen near Medellin. The victim, a US resident, was enroute to visit his family in Ecuador when he was abducted. The FARC demanded $1 million for his release.

17 July

India

An unidentified militant threw a grenade in the Jehangir Chowk area in Srinagar, Kashmir, injuring 13 persons, according to press accounts. A police official stated that the grenade was thrown at a Border Security Force post but exploded in the road instead. No one claimed responsibility, but police believe that Muslim militants are behind the attack.

18 July

Ecuador

The Indigenous Defense Front for Pastaza Province (FDIP) kidnapped three employees of an Ecuadorian pipeline maker subcontracted by a US oil company in Pastaza Province. The group accuses the company of causing environmental damage in its oilfield developments. On 28 July the FDIP released one hostage, and it released the remaining two hostages the next day.

20 July

Tajikistan

Unidentified assailants ambushed and killed four members of the United Nations Mission of Observers in the Tavildara area. The victims included military observers from Poland and Uruguay, a Japanese Civil Affairs officer, and a Tajikistani interpreter.

22 July

Yemen

An assailant possibly associated with the Abu Nidal organization murdered an Egyptian citizen in Sanaa. The victim, Muhammad Salah Sha'ban, was the Imam of al-Husayni Mosque in Sanaa. The motive for the murder of Sha'ban—reportedly a member of the Egyptian al-Gama'at-al-Islamiyya—is unclear.

24 July

India

A bomb exploded near the railroad tracks moments after the Shalimar Express passed by in Jammu and Kashmir, killing one soldier and injuring two civilians. Indian officials believe that Muslim militants are responsible.

25 July

Yemen

A Yemeni shot and killed three Catholic nuns, one Filipino, and two Indians in the Red Sea port city of Al Hudaydah. Press reports stated that the assailant considers himself a Muslim fundamentalist and that he trained in Bosnia as a fighter, but Yemeni officials described him as "deranged."

26 July

India

A bomb exploded on an empty bus parked at the interstate bus terminal in New Delhi, killing two persons and injuring at least eight others, according to police reports. The bomb destroyed the bus and caused major damage to six others.

28 July

India

According to police reports, suspected Muslim militants killed ten villagers in a predawn attack northwest of Doda, Kashmir. Five persons are reported missing.

India

In Doda, Kashmir, suspected Muslim militants killed at least eight members of two Hindu families and wounded three others. Eyewitnesses reported that the gunmen lined up the victims and shot them at point blank range.

1 August

Northern Ireland

A 500-pound car bomb exploded outside a shoe store in Banbridge, injuring 35 persons and damaging at least 200 homes. Authorities had received a warning telephone call and were evacuating the area when the bomb went off. The Real IRA, the Republic of Ireland-based military wing of the 32 County Sovereignty Council, claimed responsibility.

4 August

India

Suspected militants from the Harakat ul-Mujahidin (HUM) gunned down 19 persons near Surankot, Kashmir, according to the Indian Border Security Force and press reports. Two survivors traveled six hours on foot to report the attack to authorities. The victims were family members of a rival group that reportedly had been collaborating with Indian security forces.

India
Unidentified assailants with automatic rifles opened fire on a group of sleeping laborers at a remote construction site in Himachal Pradesh, killing 26 persons and wounding eight others. As the militants headed back to Kashmir they attacked a second group of workers, killing eight persons and wounding three others. Authorities suspect Pakistani-backed militants.

India
According to eyewitness reports, militants detonated a grenade in a crowded marketplace in Lal Chowk, Srinagar, Kashmir, injuring seven persons.

7 August

Kenya
A bomb exploded at the rear entrance of the US Embassy in Nairobi, killing 12 US citizens, 32 Foreign Service Nationals (FSNs), and 247 Kenyan citizens. Approximately 5,000 Kenyans, six US citizens, and 13 FSNs were injured. The US Embassy building sustained extensive structural damage. The US Government is holding terrorist financier Usama Bin Ladin responsible.

Tanzania
Almost simultaneously, a bomb detonated outside the US Embassy in Dar es Salaam, killing seven FSNs and three Tanzanian citizens, and injuring one US citizen and 76 Tanzanians. The explosion caused major structural damage to the US Embassy facility. The US Government holds Usama Bin Ladin responsible.

10 August

India
Unidentified assailants threw a grenade and fired automatic weapons into a crowded bus in Anantnag, Kashmir, killing four persons and injuring seven others, according to police reports. Authorities suspect Pakistani-backed separatists.

12 August

Democratic Republic of the Congo
Suspected former Rwandan soldiers abducted six tourists—one Canadian, two Swedes, and three New Zealanders—after the tourists crossed into the Congo from Uganda. Two of the New Zealanders escaped one week later, and the Canadian was released on 19 August with a statement from a previously unknown group called People in Action for the Liberation of Rwanda. The group claimed responsibility and stated that the remaining captives would be freed if a message from the group was read over BBC broadcasts in Africa. The remaining hostages reportedly were sighted in the forests in eastern Congo.

14 August

Sri Lanka
The Liberation Tigers of Tamil Eelam (LTTE) seized a Dubai-owned cargo ship and abducted 21 crew-members, including 17 Indian nationals. The LTTE evacuated the crew before the Sri Lankan Air Force bombed and destroyed the ship, on the suspicion that the vessel was transporting supplies to the LTTE. The 17 Indian hostages were released to the International Committee of the

Red Cross on 19 August. The LTTE continues to hold four Sri Lankans hostage.

15 August

Northern Ireland

A 500-pound car bomb exploded outside a local courthouse in Omag's central shopping district, killing 29 persons and injuring more than 330. Authorities were in the process of clearing the shopping area around the courthouse when the bomb exploded. On 17 August authorities arrested five local men suspected of involvement in the bombing. The Real IRA claimed responsibility.

25 August

India

Separatist guerrillas threw a grenade at a vehicle carrying security personnel in Srinagar. According to police, the grenade missed its target and exploded in the crowded street, injuring 12 persons.

India

Police reported that unidentified militants threw a grenade in downtown Srinagar, killing one civilian and injuring 11 others.

South Africa

A bomb exploded in the Planet Hollywood restaurant in Capetown, killing one person and injuring at least 24 others—including nine British citizens—and causing major damage. The Muslims Against Global Oppression (MAGO) claimed responsibility in a phone call to a local radio station, stating that the bomb was in retaliation for the US missile attacks on terrorist facilities in Sudan and Afghanistan. Police believe that People Against Gangsterism and Drugs (PAGAD) are responsible.

29 August

Belgium

Arsonists firebombed a McDonald's restaurant in Puurs, destroying the restaurant and causing up to $1.4 million in damage. The Animal Liberation Front (ALF) claimed responsibility for the attack.

2 September

India

Police reported that Muslim militants detonated a landmine under a bus carrying troops from Jammu to Punch, killing the civilian driver and seriously injuring 15 soldiers.

8 September

Philippines

Approximately 30 suspected Muslim militants armed with rifles and grenade launchers abducted an Italian priest and 12 Filipinos from a cooperative store in the parish church. The Filipino hostages were released the next day, but the priest still is being held. No ransom has been demanded. Police suspect either the Abu Sayyaf Group (ASG) or the Moro Islamic Liberation Front (MILF).

9 September

Philippines

Suspected ASG members kidnapped three Hong Kong businessmen in Mindanao. The victims are employed by the Jackaphil Company.

No ransom demand has been made. On 23 December the three kidnapped victims were released unharmed.

21 September

Georgia

Unidentified assailants opened fire on a bus in Sukhumi, wounding three UN military observers and one other UN mission employee, according to UN officials. The injured include two Bangladeshis and one Nigerian.

22 September

Colombia

Suspected FARC members kidnapped a Japanese businessman from his farm in Bogota.

India

Police and doctors reported that unidentified gunmen shot and wounded a French tourist near the Jama Masjid mosque in Srinagar. Witnesses said that two assailants fired at the victim. Muslim guerrillas are suspected.

29 September

Ecuador

A bomb exploded at the Ecuadorian Bishops' Conference, injuring one Spanish missionary and causing major damage. The explosion released leaflets calling for improved cost of living and utility services. Police believe the bombing is linked to a national strike protesting the economic package implemented by the Ecuadorian President.

3 October

Russia

On 3 October 1998 in Groznyy, Chechnya, 20 unidentified armed assailants kidnapped three Britons and one New Zealander. On 8 December partial remains of the hostages were discovered on a roadside.

5 October

Ecuador

Three employees of the Santa Fe Oil Company, two US citizens and one Ecuadorian, were kidnapped, according to local press accounts. One US citizen escaped the next day.

6 October

India

According to police reports, suspected Muslim militants threw a bomb at a vehicle carrying a prominent former militant in Tral, Kashmir, killing him and 10 others.

8 October

India

According to police officials, Muslim militants threw a grenade at a police post in Srinagar, Kashmir, injuring five civilians, four police officers and four soldiers.

India

Police reported that Muslim militants detonated a bomb near the state secretariat building in Srinagar, Kashmir, injuring 13 persons and causing minor damage.

9 October

Pakistan

Police reported that unidentified assailants opened fire on the Iranian Cultural Center in Multan, killing one Pakistani security guard and wounding another.

12 October

Colombia

People's Liberation Army (EPL) rebels kidnapped 20 persons, including four foreigners at a road block on the Northeastern Highway. The rebels burned three cars and released two hostages to report the situation to the media.

18 October

Colombia

A bomb exploded on the Ocensa pipeline in Antioquia Department, killing approximately 71 persons and injuring at least 100 others. The explosion caused major damage when the spilled oil caught fire and burned nearby houses in the town of Machuca. The pipeline is jointly owned by the Colombia State Oil Company Ecopetrol and a consortium including US, French, British, and Canadian companies. On 19 October the ELN claimed responsibility.

26 October

Colombia

Guerrillas abducted a Danish engineer and two Colombians at a roadblock in San Juan. Local authorities suspect the FARC or ELN is responsible. (On 21 January 1999 in Carmen de Bolivar EPL rebels freed the Danish hostage. There have been no reports on the two Colombians.)

28 October

Yemen

Armed tribesmen in the Mahfad region kidnapped two Belgian citizens, demanding the release of a tribesman sentenced to death by a Yemeni court. On 29 October tribesmen released the hostages.

8 November

Angola

In Lunde Norte Province at least 50 armed assailants attacked a Canadian-owned diamond mine, killing one Portuguese national, two Britons, three Angolans, and wounding 18 others. The assailants also took four workers hostage, including one South African, one Briton, and two Filipinos. Angolan officials blame the attack on UNITA. The secretary general of UNITA claimed responsibility for the attack but denied taking hostages.

14 November

India

In Budgam, near Srinagar, Kashmir, a police spokesman reported that militants threw a grenade near a telephone booth, seriously injuring one person.

India

Police reported an explosion at a taxi stand near Srinagar that injured four persons and damaged four vehicles.

15 November

Colombia

Armed assailants followed a US businessman and his family home in Cundinamarca Department and kidnapped his 11-year-old son after stealing money, jewelry, one automobile, and two cell phones. The kidnappers demanded $1 million in ransom.

On 21 January 1999 the US Embassy reported that the kidnappers released the boy to his mother and uncle in Tolima Department. It is not known if any ransom was paid. The kidnappers claim to be members of the Leftist Revolutionary Armed Commandos for Peace in Colombia.

Sierra Leone

Sierra Leone authorities report that rebels led by Sierra Leone's ousted junta leader, Solomon Musa, kidnapped an Italian Catholic missionary from his residence. Musa leads a faction of the Armed Forces Revolutionary Council. Musa demanded a satellite telephone, medical supplies, and radio contact with his wife for release of the priest. His wife, Tina Musa, was arrested in September and is being detained in Freetown.

17 November

Greece

According to press reports, a bomb exploded outside a Citibank branch in Athens, causing major damage. An unidentified telephone caller to a local newspaper claimed the attack was to protest against arrests made during a student march.

India

A bomb exploded near the Madana bridge in Surankot, Kashmir, killing four persons and injuring several others, according to press reporting. Muslim militants are suspected.

India

Press reported a bomb detonated near a crowded bus stand in Anantnag, killing three persons and wounding 38 others.

India

Police reported Muslim militants detonated a grenade in Anantnag, killing three persons and injuring 35 others.

24 November

Yemen

A car bomb exploded near the German Embassy in Sanaa, killing two persons and injuring several others, according to reports from German and Yemeni officials. The German Embassy confirmed that no Germans were killed or injured.

25 November

India

In Handwara, Kashmir, police reported that Muslim militants threw a grenade at a wedding party, injuring 11 persons.

27 November

Uganda

Ugandan officials state that 30 Lord's Resistance Army rebels attacked a World Food Program (WFP) convoy, killing seven persons and wounding 28 others. An eyewitness reported the rebels also abducted five persons believed to be WFP officials, and one other person.

3 December

Colombia

Guerrillas kidnapped one German citizen and two Colombians from a bus at a false roadblock in Cauca Department. The guerrillas set the bus on fire and dynamited a tollbooth after stealing the money. Authorities suspect the FARC or ELN is responsible. On 8 January the ELN released the German citizen unharmed.

6 December

Yemen

Local press reported that armed tribals kidnapped four German tourists in Sanaa, demanding $500,000 ransom and improvements to local health and educational facilities. On 30 December the guerrillas released the hostages.

7 December

Italy

During the week of 7 December the ALF sent panettone cakes laced with rat poison to two branches of the Italian news agency ANSA. Two Italian subsidiaries of Swiss Nestle were forced to halt production, costing the company $30 million. According to Italy's ALF founder, the poisoned cakes were sent to protest Nestle's genetic manipulation of food.

8 December

Colombia

A Spanish newspaper reported that FARC guerrillas kidnapped one Spanish citizen and three Colombians. No ransom demands have been made.

9 December

India

A bomb exploded in a shop in the Punch District of Kashmir, wounding the shopkeeper. Police suspect Muslim militants are responsible.

India

In Bandipura, Kashmir, local press reported that Muslim militants threw a grenade at a group near a bus station, killing three persons and injuring 20 others.

Yemen

In Sanaa, Yemeni passengers on a chartered Egyptian airliner demanded to be flown to Libya. The Egyptian pilot landed the plane in Tunisia and told the 150 passengers he could not fly the plane to Libya due to the UN sanctions. The plane and passengers remained on the ground for 15 hours before returning to Yemen.

23 December

India

Muslim militants forced their way into three homes in three separate villages in Kulham District, Kashmir, killing nine persons, ac-

cording to police reports. The victims were all close relatives of former militants who now support the pro-Indian government militia. Kashmir authorities blame the attacks on the Hizbul Mujahidin.

26 December

Angola

United Nations officials report that a transport plane carrying 10 UN officials and four crew members was shot down over an area of intense fighting between UNITA rebels and government troops. National Radio Services state that UNITA shot down the plane. A UN rescue team arrived at the crash site on 8 January 1999, reporting that no one survived the crash and that the bodies of all 14 persons aboard the plane were accounted for.

28 December

Yemen

Armed militants kidnapped a group of tourists traveling on the main road from Habban to Aden. The victims included two US citizens, twelve Britons, and two Australians. On 29 December Yemeni security forces undertook a rescue attempt, during which three Britons and one Australian were killed, and one US citizen was injured seriously. Yemeni officials reported that the kidnappers belong to the Islamic Jihad, but the investigation is ongoing.

APPENDIX B: BACKGROUND INFORMATION ON TERRORIST GROUPS

The following list of terrorist groups is not exhaustive. It focuses on the groups that were designated foreign terrorist organizations on 8 October 1997 pursuant to the Antiterrorism and Effective Death Penalty Act of 1996 (denoted by an asterisk) but also includes other major groups that were active in 1998. Terrorist groups whose activities were limited in scope in 1998 are not included.

ABU NIDAL ORGANIZATION (ANO)*

a.k.a.: Fatah Revolutionary Council, Arab Revolutionary Council, Arab Revolutionary Brigades, Black September, and Revolutionary Organization of Socialist Muslims

Description: International terrorist organization led by Sabri al-Banna. Split from PLO in 1974. Made up of various functional committees, including political, military, and financial.

Activities: Has carried out terrorist attacks in 20 countries, killing or injuring almost 900 persons. Targets include the United States, the United Kingdom, France, Israel, moderate Palestinians, the PLO, and various Arab countries. Major attacks included the Rome and Vienna airports in December 1985, the Neve Shalom synagogue in Istanbul and the Pan Am Flight 73 hijacking in Karachi in September 1986, and the City of Poros day-excursion ship attack in July 1988 in Greece. Suspected of assassinating PLO deputy chief Abu Iyad and PLO security chief Abu Hul in Tunis in January 1991. ANO assassinated a Jordanian diplomat in Lebanon in January 1994 and has been linked to the killing of the PLO representative there. Has not attacked Western targets since the late 1980s.

Strength: Several hundred plus militia in Lebanon and limited overseas support structure.

Location/Area of Operation: Al-Banna may have relocated to Iraq in December 1998, where the group maintains a presence. Has an operational presence in Lebanon in the Bekaa Valley and several Palestinian refugee camps in coastal areas of Lebanon. Also has a presence in Sudan and Syria, among others. Has demonstrated ability to operate over wide area, including the Middle East, Asia, and Europe.

External Aid: Has received considerable support, including safehaven, training, logistic assistance, and financial aid from Iraq, Libya, and Syria (until 1987), in addition to close support for selected operations.

ABU SAYYAF GROUP (ASG)*

Description: Smallest and most radical of the Islamic separatist groups operating in the southern Philippines. Split from the Moro National Liberation Front in 1991 under the leadership of Abdurajik Abubakar Janjalani, who was killed in a clash with Philippine police on 18 December 1998. Some members have studied or worked in the Middle East and developed ties to Arab mujahidin while fighting and training in Afghanistan.

Activities: Uses bombs, assassinations, kidnappings, and extortion payments to promote an independent Islamic state in western

Mindanao and the Sulu Archipelago, areas in the southern Philippines heavily populated by Muslims. Raided the town of Ipil in Mindanao in April 1995, the group's first large-scale action. Suspected of several small-scale bombings and kidnappings in 1998.

Strength: Unknown, but believed to have about 200 members.

Location/Area of Operation: The ASG operates in the southern Philippines and occasionally in Manila.

External Aid: Probably receives support from Islamic extremists in the Middle East and South Asia.

AL-JIHAD

(see under J)

ALEX BONCAYAO BRIGADE (ABB)

Description: The ABB, the urban hit squad of the Communist Party of the Philippines, was formed in the mid–1980s.

Activities: Responsible for more than 100 murders and believed to have been involved in the 1989 murder of US Army Col. James Rowe in the Philippines. Although reportedly decimated by a series of arrests in late 1995, the murder in June 1996 of a former high-ranking Philippine official, claimed by the group, demonstrates that it still maintains terrorist capabilities. In March 1997 the group announced that it had formed an alliance with another armed group, the Revolutionary Proletarian Army.

Strength: Approximately 500.

Location/Area of Operation: Operates exclusively in Manila.

External Aid: Unknown.

ARMED ISLAMIC GROUP (GIA)*

Description: An Islamic extremist group, the GIA aims to overthrow the secular Algerian regime and replace it with an Islamic state. The GIA began its violent activities in early 1992 after Algiers voided the victory of the Islamic Salvation Front (FIS)—the largest Islamic party—in the first round of legislative elections in December 1991.

Activities: Frequent attacks against civilians, journalists, and foreign residents. In the last several years the GIA has conducted a terrorist campaign of civilian massacres, sometimes wiping out entire villages in its area of operations and frequently killing hundreds of civilians. Since announcing its terrorist campaign against foreigners living in Algeria in September 1993, the GIA has killed more than 100 expatriate men and women—mostly Europeans—in the country. Uses assassinations and bombings, including car bombs, and it is known to favor kidnapping victims and slitting their throats. The GIA hijacked an Air France flight to Algiers in December 1994, and suspicions centered on the group for a series of bombings in France in 1995.

Strength: Unknown, probably several hundred to several thousand.

Location/Area of Operation: Algeria.

External Aid: Algerian expatriates and GIA members abroad, many of whom reside in Western Europe, provide some financial and logistic support. In addition, the Algerian Government has ac-

cused Iran and Sudan of supporting Algerian extremists and severed diplomatic relations with Iran in March 1993.

AUM SUPREME TRUTH (AUM)*

a.k.a.: Aum Shinrikyo

Description: A cult established in 1987 by Shoko Asahara, Aum aims to take over Japan and then the world. Its organizational structure mimicks that of a nation-state, with "finance," "construction," and "science and technology" ministries. Approved as a religious entity in 1989 under Japanese law, the group ran candidates in a Japanese parliamentary election in 1990. Over time, the cult began to emphasize the imminence of the end of the world and stated that the United States would initiate"Armageddon" by starting World War III with Japan. The Japanese Government revoked its recognition of Aum as a religious organization in October 1995, but in 1997 a government panel decided not to invoke the Anti-Subversive Law against the group, which would have outlawed the cult.

Activities: On 20 March 1995 Aum members simultaneously released sarin nerve gas on several Tokyo subway trains, killing 12 persons and injuring up to 6,000. The group was responsible for other mysterious chemical incidents in Japan in 1994. Its efforts to conduct attacks using biological agents have been unsuccessful. Japanese police arrested Asahara in May 1995, and he remained on trial facing seventeen counts of murder at the end of 1998. In 1997 and 1998 the cult resumed its recruiting activities in Japan and opened several commercial businesses. Maintains an Internet homepage that indicates Armageddon and anti-US sentiment remain a part of the cult's world view.

Strength: At the time of the Tokyo subway attack, the group claimed to have 9,000 members in Japan and up to 40,000 worldwide. Its current strength is unknown.

Location/Area of Operation: Operates in Japan, but previously had a presence in Australia, Russia, Ukraine, Germany, Taiwan, Sri Lanka, the former Yugoslavia, and the United States.

External Aid: None.

BASQUE FATHERLAND AND LIBERTY (ETA)*

a.k.a: Euzkadi Ta Askatasuna

Description: Founded in 1959 with the aim of establishing an independent homeland based on Marxist principles in Spain's Basque region and the southwestern French provinces of Labourd, Basse-Navarra, and Soule.

Activities: Primarily bombings and assassinations of Spanish Government officials, especially security and military forces, politicians, and judicial figures. In response to French operations against the group, ETA also has targeted French interests. Finances its activities through kidnappings, robberies, and extortion. Has killed more than 800 persons since it began lethal attacks in the early 1960s; responsible for murdering 6 persons in 1998. ETA declared a "unilateral and indefinite" cease-fire on 17 September 1998.

Strength: Unknown; may have hundreds of members, plus supporters.

Location/Area of Operation: Operates primarily in the Basque autonomous regions of northern Spain and southwestern France, but also has bombed Spanish and French interests elsewhere.

External Aid: Has received training at various times in the past in Libya, Lebanon, and Nicaragua. Some ETA members allegedly have received sanctuary in Cuba. Also appears to have ties to the Irish Republican Army through the two groups' legal political wings.

CONTINUITY IRISH REPUBLICAN ARMY (CIRA)

a.k.a.: Continuity Army Council

Description: Radical terrorist group formed in 1994 as the clandestine armed wing of Republican Sinn Fein, a political organization dedicated to the reunification of Ireland. Established to carry on the republican armed struggle after the Irish Republican Army announced a cease-fire in September 1994.

Activities: Bombings, assassinations, kidnappings, extortion, and robberies. Targets include British military and Northern Irish security targets and Northern Irish Loyalist paramilitary groups. Also has launched bomb attacks against predominantly Protestant towns in Northern Ireland. Does not have an established presence or capability to launch attacks on the UK mainland.

Strength: Fewer than 50 activists. The group probably receives limited support from IRA hardliners, who are dissatisfied with the IRA cease-fire, and other republican sympathizers.

Location/Area of Operation: Northern Ireland, Ireland.

External Aid: Suspected of receiving funds and arms from sympathizers in the United States.

DEMOCRATIC FRONT FOR THE LIBERATION OF PALESTINE (DFLP)*

Description: Marxist-Leninist organization founded in 1969 when it split from the Popular Front for the Liberation of Palestine (PFLP). Believes Palestinian national goals can be achieved only through revolution of the masses. In early 1980s occupied political stance midway between Arafat and the rejectionists. Split into two factions in 1991; Nayif Hawatmah leads the majority and more hardline faction, which continues to dominate the group. Joined with other rejectionist groups to form the Alliance of Palestinian Forces (APF) to oppose the Declaration of Principals signed in 1993. Broke from the APF—along with the Popular Front for the Liberation of Palestine (PFLP)—over ideological differences. Has made limited moves toward merging with the PFLP since the mid–1990s.

Activities: In the 1970s conducted numerous small bombings and minor assaults and some more spectacular operations in Israel and the occupied territories, concentrating on Israeli targets. Involved only in border raids since 1988, but continues to oppose the Israel-PLO peace agreement.

Strength: Estimated at 500 (total for both factions).

Location/Area of Operation: Syria, Lebanon, and the Israeli-occupied territories; terrorist attacks have taken place entirely in Israel and the occupied territories. Conducts occasional guerrilla operations in southern Lebanon.

External Aid: Receives limited financial and military aid from Syria.

DEVRIMCI SOL (REVOLUTIONARY LEFT)

a.k.a.: Dev Sol *(see Revolutionary People's Liberation Party/Front, DHKP/C)*

ELA

(see Revolutionary People's Struggle)

ELN

(see National Liberation Army)

ETA

(see Basque Fatherland and Liberty)

FARC

(see Revolutionary Armed Forces of Colombia)

FPMR

(see Manuel Rodriguez Patriotic Front)

AL-GAMA'AT AL-ISLAMIYYA (ISLAMIC GROUP, IG) *

Description: Egypt's largest militant group, active since the late 1970s; appears to be loosely organized. Has an external wing with a worldwide presence. Signed Usama Bin Ladin's fatwa in February 1998 calling for attacks against US civilians but publicly has denied that it supports Bin Ladin. Shaykh Umar Abd al-Rahman is al-Gama'at's preeminent spiritual leader, and the group publicly has threatened to retaliate against US interests for his incarceration. Primary goal is to overthrow the Egyptian Government and replace it with an Islamic state.

Activities: Armed attacks against Egyptian security and other government officials, Coptic Christians, and Egyptian opponents of Islamic extremism. Al-Gama'at has launched attacks on tourists in Egypt since 1992, most notably the attack in November 1997 at Luxor that killed 58 foreign tourists. Also claimed responsibility for the attempt in June 1995 to assassinate Egyptian President Hosni Mubarak in Addis Ababa, Ethiopia.

Strength: Unknown, but probably several thousand hardcore members and another several thousand sympathizers.

Location/Area of Operation: Operates mainly in the Al Minya, Asyu't, Qina, and Soha Governorates of southern Egypt. Also appears to have support in Cairo, Alexandria, and other urban locations, particularly among unemployed graduates and students. Has a worldwide presence, including in the United Kingdom, Afghanistan, and Austria.

External Aid: Unknown. The Egyptian Government believes that Iranian, Sudanese, and Afghan militant groups support the IG.

HAMAS (ISLAMIC RESISTANCE MOVEMENT)*

Description: Formed in late 1987 as an outgrowth of the Palestinian branch of the Muslim Brotherhood. Various HAMAS elements have used both political and violent means, including ter-

rorism, to pursue the goal of establishing an Islamic Palestinian state in place of Israel. Loosely structured, with some elements working clandestinely and others working openly through mosques and social service institutions to recruit members, raise money, organize activities, and distribute propaganda. HAMAS's strength is concentrated in the Gaza Strip and a few areas of the West Bank. Also has engaged in peaceful political activity, such as running candidates in West Bank Chamber of Commerce elections.

Activities: HAMAS activists, especially those in the Izz el-Din al-Qassam Brigades, have conducted many attacks—including large-scale suicide bombings—against Israeli civilian and military targets, suspected Palestinian collaborators, and Fatah rivals.

Strength: Unknown number of hardcore members; tens of thousands of supporters and sympathizers.

Location/Area of Operation: Primarily the occupied territories, Israel, and Jordan.

External Aid: Receives funding from Palestinian expatriates, Iran, and private benefactors in Saudi Arabia and other moderate Arab states. Some fundraising and propaganda activity take place in Western Europe and North America.

HARAKAT UL-MUJAHIDIN (HUM)

Description: Formerly the Harakat ul-Ansar, which was designated a foreign terrorist organization in October 1997. HUM is an Islamic militant group based in Pakistan that operates primarily in Kashmir. Leader Fazlur Rehman Khalil has been linked to Bin Ladin and signed his fatwa in February 1998 calling for attacks on US and Western interests. Operates terrorist training camps in eastern Afghanistan and suffered casualties in the US missile strikes on Bin Ladin-associated training camps in Khowst in August 1998. Fazlur Rehman Khalil subsequently said that HUM would take revenge on the United States.

Activities: Has conducted a number of operations against Indian troops and civilian targets in Kashmir. Linked to the Kashmiri militant group al-Faran that kidnapped five Western tourists in Kashmir in July 1995; one was killed in August 1995, and the other four reportedly were killed in December of the same year.

Strength: Has several thousand armed supporters located in Azad Kashmir, Pakistan, and India's southern Kashmir and Doda regions. Supporters are mostly Pakistanis and Kashmiris, and also include Afghans and Arab veterans of the Afghan war. Uses light and heavy machineguns, assault rifles, mortars, explosives, and rockets.

Location/Area of Operation: Based in Muzaffarabad, Pakistan, but members conduct insurgent and terrorist activities primarily in Kashmir. The HUM trains its militants in Afghanistan and Pakistan.

External Aid: Collects donations from Saudi Arabia and other Gulf and Islamic states and from Pakistanis and Kashmiris. The source and amount of HUA's military funding are unknown.

HIZBALLAH (PARTY OF GOD)*

a.k.a.: Islamic Jihad, Revolutionary Justice Organization, Organization of the Oppressed on Earth, and Islamic Jihad for the Liberation of Palestine

Description: Radical Shia group formed in Lebanon; dedicated to creation of Iranian-style Islamic republic in Lebanon and removal of all non-Islamic influences from the area. Strongly anti-West and anti-Israel. Closely allied with, and often directed by, Iran but may have conducted operations that were not approved by Tehran.

Activities: Known or suspected to have been involved in numerous anti-US terrorist attacks, including the suicide truck bombing of the US Embassy and US Marine barracks in Beirut in October 1983 and the US Embassy annex in Beirut in September 1984. Elements of the group were responsible for the kidnapping and detention of US and other Western hostages in Lebanon. The group also attacked the Israeli Embassy in Argentina in 1992.

Strength: Several thousand.

Location/Area of Operation: Operates in the Bekaa Valley, the southern suburbs of Beirut, and southern Lebanon. Has established cells in Europe, Africa, South America, North America, and elsewhere.

External Aid: Receives substantial amounts of financial, training, weapons, explosives, political, diplomatic, and organizational aid from Iran and Syria.

IRISH REPUBLICAN ARMY (IRA)

a.k.a.: Provisional Irish, Republican Army (PIRA), the Provos

Description: Radical terrorist group formed in 1969 as clandestine armed wing of Sinn Fein, a legal political movement dedicated to removing British forces from Northern Ireland and unifying Ireland. Has a Marxist orientation. Organized into small, tightly knit cells under the leadership of the Army Council.

Activities: Bombings, assassinations, kidnappings, extortion, and robberies. Before its cease-fire in 1994, targets included senior British Government officials, British military and Royal Ulster Constabulary targets in Northern Ireland, and a British military facility on the European Continent. The IRA has been observing a cease-fire since July 1997; the group's previous cease-fire was from 1 September 1994 to February 1996.

Strength: Several hundred, plus several thousand sympathizers.

Local/Area of Operation: Northern Ireland, Ireland, Great Britain, and Europe.

External Aid: Has received aid from a variety of groups and countries and considerable training and arms from Libya and, at one time, the PLO. Is suspected of receiving funds and arms from sympathizers in the United States. Similarities in operations suggest links to the ETA.

ISLAMIC RESISTANCE MOVEMENT (SEE HAMAS)

JAMAAT UL-FUQRA

Description: Islamic sect that seeks to purify Islam through violence. Led by Pakistani cleric Shaykh Mubarik Ali Gilani, who es-

tablished the organization in the early 1980s. Gilani now resides in Pakistan, but most cells are located in North America and the Caribbean. Members have purchased isolated rural compounds in North America to live communally, practice their faith, and insulate themselves from Western culture.

Activities: Fuqra members have attacked a variety of targets that they view as enemies of Islam, including Muslims they regards as heretics and Hindus. Attacks during the 1980s included assassinations and firebombings across the United States. Fuqra members in the United States have been convicted of criminal violations, including murder and fraud.

Strength: Unknown.

Location/Area of Operation: North America, Pakistan.

External Aid: None.

JAPANESE RED ARMY (JRA)*

a.k.a.: Anti-Imperialist International Brigade (AIIB)

Description: An international terrorist group formed around 1970 after breaking away from Japanese Communist League-Red Army Faction. Led by Fusako Shigenobu, believed to be in Syrian-garrisoned area of Lebanon's Bekaa Valley. Stated goals are to overthrow Japanese Government and monarchy and help foment world revolution. Organization unclear but may control or at least have ties to Anti-Imperialist International Brigade (AIIB). Also may have links to Antiwar Democratic Front, an overt leftist political organization in Japan. Details released following arrest in November 1987 of leader Osamu Maruoka indicate that JRA may be organizing cells in Asian cities, such as Manila and Singapore. Has had close and longstanding relations with Palestinian terrorist groups—based and operating outside Japan—since its inception.

Activities: During the 1970s JRA conducted a series of attacks around the world, including the massacre in 1972 at Lod Airport in Israel, two Japanese airliner hijackings, and an attempted takeover of the US Embassy in Kuala Lumpur. In April 1988, JRA operative Yu Kikumura was arrested with explosives on the New Jersey Turnpike, apparently planning an attack to coincide with the bombing of a USO club in Naples and a suspected JRA operation that killed five, including a US servicewoman. Kikumura was convicted of these charges and is serving a lengthy prison sentence in the United States. In March 1995, Ekita Yukiko, a longtime JRA activist, was arrested in Romania and subsequently deported to Japan. Eight others have been arrested since 1996, but leader Shigenobu remains at large.

Strength: About eight hardcore members; undetermined number of sympathizers.

Location/Area of Operation: Location unknown, but possibly based in Syrian-controlled areas of Lebanon.

External Aid: Unknown.

AL-JIHAD*

a.k.a.: Jihad Group, Islamic Jihad, Vanguards of Conquest, Talaa' al-Fateh

Description: Egyptian Islamic extremist group active since the late 1970s. Appears to be divided into two factions: one led by

Ayman al-Zawahiri—who currently is in Afghanistan and is a key leader in terrorist financier Usama Bin Ladin's new World Islamic Front—and the Vanguards of Conquest (Talaa' al-Fateh) led by Ahmad Husayn Agiza. Abbud al-Zumar, leader of the original Jihad, is imprisoned in Egypt and recently joined the group's jailed spiritual leader, Shaykh Umar Abd al-Rahman, in a call for a "peaceful front." Primary goal is to overthrow the Egyptian Government and replace it with an Islamic state. Increasingly willing to target US interests in Egypt.

Activities: Specializes in armed attacks against high-level Egyptian Government officials. The original Jihad was responsible for the assassination in 1981 of Egyptian President Anwar Sadat. Appears to concentrate on high-level, high-profile Egyptian Government officials, including cabinet ministers. Claimed responsibility for the attempted assassinations of Interior Minister Hassan al-Alfi in August 1993 and Prime Minister Atef Sedky in November 1993. Has not conducted an attack inside Egypt since 1993 and never has targeted foreign tourists there. Has threatened to retaliate against the United States, however, for its incarceration of Shaykh Umar Abd al-Rahman and, more recently, for the arrests of its members in Albania, Azerbaijan, and the United Kingdom.

Strength: Not known, but probably several thousand hardcore members and another several thousand sympathizers among the various factions.

Location/Area of Operation: Operates in the Cairo area. Has a network outside Egypt, including Afghanistan, Pakistan, the United Kingdom, and Sudan.

External Aid: Not known. The Egyptian Government claims that Iran, Sudan, and militant Islamic groups in Afghanistan—including Usama Bin Ladin—support the Jihad factions. Also may obtain some funding through various Islamic nongovernmental organizations.

KACH* AND KAHANE CHAI*

Description: Stated goal is to restore the biblical state of Israel. Kach (founded by radical Israeli-American rabbi Meir Kahane) and its offshoot Kahane Chai, which means "Kahane Lives," (founded by Meir Kahane's son Binyamin following his father's assassination in the United States) were declared to be terrorist organizations in March 1994 by the Israeli Cabinet under the 1948 Terrorism Law. This followed the groups' statements in support of Dr. Baruch Goldstein's attack in February 1994 on the al-Ibrahimi Mosque—Goldstein was affiliated with Kach—and their verbal attacks on the Israeli Government.

Activities: Organize protests against the Israeli Government. Harass and threaten Palestinians in Hebron and the West Bank. Have threatened to attack Arabs, Palestinians, and Israeli Government officials. Claimed responsibility for several shootings of West Bank Palestinians that killed four persons and wounded two in 1993.

Strength: Unknown.

Location/Area of Operation: Israel and West Bank settlements, particularly Qiryat Arba' in Hebron.

External Aid: Receives support from sympathizers in the United States and Europe.

KHMER ROUGE

(see The Party of Democratic Kampuchea)

KURDISTAN WORKERS' PARTY (PKK)*

Description: Established in 1974 as a Marxist-Leninist insurgent group primarily composed of Turkish Kurds. In recent years has moved beyond rural-based insurgent activities to include urban terrorism. Seeks to establish an independent Kurdish state in southeastern Turkey, where the population is predominantly Kurdish.

Activities: Primary targets are Turkish Government security forces in Turkey but also has been active in Western Europe against Turkish targets. Conducted attacks on Turkish diplomatic and commercial facilities in dozens of West European cities in 1993 and again in spring 1995. In an attempt to damage Turkey's tourist industry, the PKK has bombed tourist sites and hotels and kidnapped foreign tourists.

Strength: Approximately 10,000 to 15,000. Has thousands of sympathizers in Turkey and Europe.

Location/Area of Operation: Operates in Turkey, Europe, the Middle East, and Asia.

External Aid: Has received safehaven and modest aid from Syria, Iraq, and Iran. The Syrian Government claims to have expelled the PKK from its territory in October 1998.

LIBERATION TIGERS OF TAMIL EELAM (LTTE)*

Known front organizations: World Tamil Association (WTA), World Tamil Movement (WTM), the Federation of Associations of Canadian Tamils (FACT), the Ellalan Force, the Sangillan Force.

Description: The most powerful Tamil group in Sri Lanka, founded in 1976. Uses overt and illegal methods to raise funds, acquire weapons, and publicize its cause of establishing an independent Tamil state. Began its armed conflict with the Sri Lankan Government in 1983 and relies on a guerrilla strategy that includes the use of terrorist tactics.

Activities: Has integrated a battlefield insurgent strategy with a terrorist program that targets not only key government personnel in the countryside but also senior Sri Lankan political and military leaders in Colombo. LTTE political assassinations and bombings have become commonplace, including suicide attacks against Sri Lankan President Ranasinghe Premadasa in 1993 and Indian Prime Minister Rajiv Gandhi in 1991. Has refrained from targeting Western tourists out of fear that foreign governments would crack down on Tamil expatriates involved in fundraising activities abroad. Prefers to attack vulnerable government facilities and withdraw before reinforcements arrive.

Strength: Approximately 10,000 armed combatants in Sri Lanka; about 3,000 to 6,000 form a trained cadre of fighters. The LTTE also has a significant overseas support structure for fundraising, weapons procurement, and propaganda activities.

Location/Area of Operation: Controls most of the northern and eastern coastal areas of Sri Lanka and has conducted operations throughout the island. Headquartered in the Jaffna peninsula, LTTE leader Velupillai Prabhakaran has established an extensive network of checkpoints and informants to keep track of any outsiders who enter the group's area of control.

External Aid: The LTTE's overt organizations support Tamil separatism by lobbying foreign governments and the United Nations. Also uses its international contacts to procure weapons, communications, and bombmaking equipment. Exploits large Tamil communities in North America, Europe, and Asia to obtain funds and supplies for its fighters in Sri Lanka. Some Tamil communities in Europe also are involved in narcotics smuggling.

LOYALIST VOLUNTEER FORCE (LVF)

Description: Extremist terrorist group formed in 1996 as a splinter of the mainstream loyalist Ulster Volunteer Force (UVF). Seeks to subvert a political settlement with Irish nationalists in Northern Ireland by attacking Catholic politicians, civilians, and Protestant politicians who endorse the Northern Ireland peace process. Composed of hardliners formerly associated with the UVF. Mark "Swinger" Fulton now leads the LVF following the assassination in December 1997 of LVF founder Billy"King Rat" Wright. Announced a unilateral cease-fire on 15 May and, in a move unprecedented among Ulster terrorist groups, decommissioned a small but significant amount of weapons on 18 December 1998.

Activities: Bombings, kidnappings, and close-quarter shooting attacks. LVF bombs often have contained Powergel commercial explosives, typical of many loyalist groups. LVF attacks have been particularly vicious: LVF terrorists killed an 18-year old Catholic girl in July 1997 because she had a Protestant boyfriend. Murdered numerous Catholic civilians with no political or terrorist affiliations following Billy Wright's assassination. Also has conducted successful attacks against Irish targets in Irish border towns.

Strength: British press speculates about 500 activists.

Location/Area of Operation: Northern Ireland, Ireland

External Aid: None.

MANUEL RODRIGUEZ PATRIOTIC FRONT (FPMR)*

Description: Founded in 1983 as the armed wing of the Chilean Communist Party and named for the hero of Chile's war of independence against Spain. Splintered into two factions in the late 1980s, and one faction became a political party in 1991. The dissident wing FPMR/D is Chile's only remaining active terrorist group.

Activities: FPMR/D attacks civilians and international targets, including US businesses and Mormon churches. In 1993, FPMR/D bombed two McDonald's restaurants and attempted to bomb a Kentucky Fried Chicken restaurant. Successful government counterterrorist operations have undercut the organization significantly. Four FPMR/D members escaped from prison using a helicopter in December 1996. One of them, Patricio Ortiz Montenegro, fled to Switzerland where he requested political asylum. Chile requested Ortiz's extradition, but the Swiss Government—fearing

Chile would not safeguard Ortiz's physical and psychological well-being—denied the request. Chilean authorities continued to pursue the whereabouts of the three others who escaped with Ortiz.

Strength: Now believed to have between 50 and 100 members.

Location/Area of Operation: Chile.

External Aid: None.

MUJAHEDIN-E KHALQ ORGANIZATION (MEK OR MKO)*

a.k.a.: The National Liberation Army of Iran (NLA, the militant wing of the MEK), the People's Mujahidin of Iran (PMOI), National Council of Resistance (NCR), Muslim Iranian Student's Society (front organization used to garner financial support)

Description: Formed in the 1960s by the college-educated children of Iranian merchants, the MEK sought to counter what it perceived as excessive Western influence in the Shah's regime. Following a philosophy that mixes Marxism and Islam, has developed into the largest and most active armed Iranian dissident group. Its history is studded with anti-Western activity, and, most recently, attacks on the interests of the clerical regime in Iran and abroad.

Activities: Worldwide campaign against the Iranian Government stresses propaganda and occasionally uses terrorist violence. During the 1970s the MEK staged terrorist attacks inside Iran and killed several US military personnel and civilians working on defense projects in Tehran. Supported the takeover in 1979 of the US Embassy in Tehran. In April 1992 conducted attacks on Iranian embassies in 13 different countries, demonstrating the group's ability to mount large-scale operations overseas. Recent attacks in Iran include three explosions in Tehran in June 1998 that killed three persons and the assassination of Asadollah Lajevardi, the former director of the Evin Prison.

Strength: Several thousand fighters based in Iraq with an extensive overseas support structure. Most of the fighters are organized in the MEK's National Liberation Army (NLA).

Location/Area of Operation: In the 1980s the MEK's leaders were forced by Iranian security forces to flee to France. Most resettled in Iraq by 1987. In the mid–1980s did not mount terrorist operations in Iran at a level similar to its activities in the 1970s. In recent years has claimed credit for a number of operations in Iran.

External Aid: Beyond support from Iraq, the MEK uses front organizations to solicit contributions from expatriate Iranian communities.

MRTA

(see Tupac Amaru Revolutionary Movement)

NATIONAL LIBERATION ARMY (ELN)—COLOMBIA*

Description: Pro-Cuban, anti-US guerrilla group formed in January 1965. Primarily rural based, although has several urban fronts, particularly in the Magdalena Medio region. Entered peace talks with Colombian Civil Society in mid–1998 and was preparing to participate in a national convention in early 1999.

Activities: Conducted weekly assaults on oil infrastructure (typically pipeline bombings) and has inflicted massive oil spills. Extor-

tion and bombings against US and other foreign businesses, especially the petroleum industry. Annually conducts several hundred kidnappings for profit, including foreign employees of large corporations. Forces coca and opium poppy cultivators to pay protection money and attacks government efforts to eradicate these crops.

Strength: Approximately 3,000–5,000 armed combatants and an unknown number of active supporters.

Location/Area of Operation: Colombia, border regions of Venezuela.

External Aid: None.

NEW PEOPLE'S ARMY (NPA)

Description: The guerrilla arm of the Communist Party of the Philippines (CPP), NPA is an avowedly Maoist group formed in December 1969 with the aim of overthrowing the government through protracted guerrilla warfare. Although primarily a rural-based guerrilla group, the NPA has an active urban infrastructure to conduct terrorism and uses city-based assassination squads called sparrow units. Derives most of its funding from contributions of supporters and so-called revolutionary taxes extorted from local businesses.

Activities: Has suffered setbacks since the late 1980s because of splits within the CPP, lack of money, and successful government operations. The NPA primarily targets Philippine security forces, corrupt politicians, and drug traffickers. Opposes any US military presence in the Philippines and attacked US military interests before the US base closures in 1992.

Strength: Estimated between 6,000 to 8,000.

Location/Area of Operation: Operates in rural Luzon, Visayas, and parts of Mindanao. Has cells in Manila and other metropolitan centers.

External Aid: Unknown.

THE PALESTINE ISLAMIC JIHAD (PIJ)*

Description: Originated among militant Palestinians in the Gaza Strip during the 1970s; a series of loosely affiliated factions rather than a cohesive group. Committed to the creation of an Islamic Palestinian state and the destruction of Israel through holy war. Because of its strong support for Israel, the United States has been identified as an enemy of the PIJ. Also opposes moderate Arab governments that it believes have been tainted by Western secularism.

Activities: Has threatened to retaliate against Israel and the United States for the murder of PIJ leader Fathi Shaqaqi in Malta in October 1995. Conducted suicide bombings against Israeli targets in the West Bank, Gaza Strip, and Israel. Has threatened to attack US interests in Jordan.

Strength: Unknown.

Location/Area of Operation: Primarily Israel and the occupied territories and other parts of the Middle East, including Jordan and Lebanon. The largest faction is based in Syria.

External Aid: Receives financial assistance from Iran and limited assistance from Syria.

PALESTINE LIBERATION FRONT (PLF)*

Description: Broke away from the PFLP-GC in mid–1970s. Later split again into pro-PLO, pro-Syrian, and pro-Libyan factions. Pro-PLO faction led by Muhammad Abbas (Abu Abbas), who became member of PLO Executive Committee in 1984 but left it in 1991.

Activities: The Abu Abbas-led faction has conducted attacks against Israel. Abbas's group also was responsible for the attack in 1985 on the cruise ship Achille Lauro and the murder of US citizen Leon Klinghoffer. A warrant for Abu Abbas's arrest is outstanding in Italy.

Strength: At least 50.

Location/Area of Operation: PLO faction based in Tunisia until Achille Lauro attack. Now based in Iraq.

External Aid: Receives support mainly from Iraq. Has received support from Libya in the past.

THE PARTY OF DEMOCRATIC KAMPUCHEA (KHMER ROUGE)*

Description: Communist insurgency trying to overthrow the Cambodian Government. Under Pol Pot's leadership, conducted a campaign of genocide, killing more than 1 million persons during its four years in power in the late 1970s. Defections starting in 1996 and accelerating in spring 1998 appear to have shattered the Khmer Rouge as a military force, but hardline remnants still may pose a threat in remote areas.

Activities: Virtually has disintegrated as a viable insurgent organization because of defections, but hardline remnants continue low-level attacks against government troops in isolated areas. Some small groups may have turned to banditry. Also targets Cambodian and ethnic Vietnamese villagers and occasionally has kidnapped and killed foreigners traveling in remote rural areas.

Strength: Fewer than 500, possibly no more than 100.

Location/Area of Operation: The Khmer Rouge operates in outlying provinces in Cambodia, particularly in the northwest along the border with Thailand.

External Aid: The Khmer Rouge currently does not receive external assistance.

PKK

(see Kurdistan Workers' Party)

POPULAR FRONT FOR THE LIBERATION OF PALESTINE (PFLP)*

Description: Marxist-Leninist group founded in 1967 by George Habash as a member of the PLO. Joined the Alliance of Palestinian Forces (APF) to oppose the Declaration of Principles signed in 1993 and has suspended participation in the PLO. Broke away from the APF, along with the DFLP, in 1996 over ideological differences. Has made limited moves toward merging with the DFLP since the mid–1990s.

Activities: Committed numerous international terrorist attacks during the 1970s. Since 1978 has conducted numerous attacks against Israeli or moderate Arab targets, including killing a settler and her son in December 1996.

Strength: Some 800.

Location/Area of Operation: Syria, Lebanon, Israel, and the occupied territories.

External Aid: Receives most of its financial and military assistance from Syria and Libya.

POPULAR FRONT FOR THE LIBERATION OF PALESTINE-GENERAL COMMAND (PFLP-GC)*

Description: Split from the PFLP in 1968, claiming it wanted to focus more on fighting and less on politics. Violently opposed to Arafat's PLO. Led by Ahmad Jabril, a former captain in the Syrian Army. Closely tied to both Syria and Iran.

Activities: Has conducted numerous cross-border terrorist attacks into Israel using unusual means, such as hot-air balloons and motorized hang gliders.

Strength: Several hundred.

Location/Area of Operation: Headquartered in Damascus with bases in Lebanon and cells in Europe.

External Aid: Receives logistic and military support from Syria and financial support from Iran.

PROVISIONAL IRISH REPUBLICAN ARMY (PIRA)

(see Irish Republican Army)

AL-QAIDA

Description: Established by Usama Bin Ladin about 1990 to bring together Arabs who fought in Afghanistan against the Soviet invasion. Helped finance, recruit, transport, and train Sunni Islamic extremists for the Afghan resistance. Current goal is to "reestablish the Muslim State" throughout the world. Works with allied Islamic extremist groups to overthrow regimes it deems "non-Islamic" and remove Westerners from Muslim countries. Issued statement under banner of "The World Islamic Front for Jihad Against The Jews and Crusaders" in February 1998, saying it was the duty of all Muslims to kill US citizens, civilian or military, and their allies everywhere.

Activities: Conducted the bombings of the US Embassies in Nairobi, Kenya and Dar es Salaam, Tanzania, on 7 August that killed at least 301 persons and injured more than 5,000 others. Claims to have shot down US helicopters and killed US servicemen in Somalia in 1993 and to have conducted three bombings targeted against the US troop presence in Aden, Yemen in December 1992. Linked to plans for attempted terrorist operations, including the assassination of the Pope during his visit to Manila in late1994; simultaneous bombings of the US and Israeli Embassies in Manila and other Asian capitals in late 1994; the midair bombing of a dozen US trans-Pacific flights in 1995; and a plan to kill President Clinton during a visit to the Philippines in early 1995. Continues to train, finance, and provide logistic support to terrorist groups that support these goals.

Strength: May have from several hundred to several thousand members. Also serves as the core of a loose umbrella organization that includes many Sunni Islamic extremist groups, including fac-

tions of the Egyptian Islamic Jihad, the Gama'at al-Islamiyya, and the Harakat ul-Mujahidin.

Location/Area of Operation: The Embassy bombings in Nairobi and Dar es Salaam underscore al-Qaida's global reach. Bin Ladin and his key lieutenants reside in Afghanistan, and the group maintains terrorist training camps there.

External Aid: Bin Ladin, son of a billionaire Saudi family, is said to have inherited around $300 million that he uses to finance the group. Al-Qaida also maintains money-making businesses, collects donations from like-minded supporters, and illicitly siphons funds from donations to Muslim charitable organizations.

QIBLA AND PEOPLE AGAINST GANGSTERISM AND DRUGS (PAGAD)

Description: Qibla is a small radical Islamic group led by Achmad Cassiem, who was inspired by Iran's Ayatollah Khomeini. Cassiem founded Qibla in the 1980s, seeking to establish an Islamic state in South Africa. PAGAD began in 1996 as a community anticrime group fighting drug lords in Cape Town's Cape Flats section. PAGAD now shares Qibla's anti-Western stance as well as some members and leadership. Though distinct, the media often treat the two groups as one.

Activities: Qibla routinely protests US policies toward the Muslim world and uses radio station 786 to promote its message and mobilze Muslims. PAGAD is suspected of conducting 170 bombings and 18 other violent actions in 1998 alone. Qibla and PAGAD may have masterminded the bombing on 15 August of the Cape Town Planet Hollywood. Often use the front names Muslims Against Global Oppression (MAGO) and Muslims Against Illegitimate Leaders (MAIL) when anti-Western campaigns are launched.

Strength: Qibla is estimated at 250 members. Police estimate there are at least 50 gunmen in PAGAD, and the size of PAGAD-organized demonstrations suggests it has considerably more adherents than Qibla.

Location/Area of Operation: Operate mainly in the CapeTown area, South Africa's foremost tourist venue.

External Aid: Probably have ties to Islamic extremists in the Middle East.

REAL IRA (RIRA)

a.k.a: True IRA

Description: Formed in February-March 1998 as clandestine armed wing of the 32-County Sovereignty Movement, a "political pressure group" dedicated to removing British forces from Northern Ireland and unifying Ireland. The 32-County Sovereignty Movement opposed Sinn Fein's adoption in September 1997 of the Mitchell principles of democracy and nonviolence and opposed the amendment in May 1998 of Articles 2 and 3 of the Irish Constitution, which lay claim to Northern Ireland. Former IRA "quartermaster general" Mickey McKevitt leads the group; Bernadette Sands-McKevitt, his common-law wife, is the vice-chair of the 32-County Sovereignty Movement.

Activities: Bombings, assassinations, and robberies. Most Real IRA activists are former IRA members; the group has inherited a wealth of experience in terrorist tactics and bombmaking. Targets

include British military and police in Northern Ireland and Northern Irish Protestant communities. Claimed responsibility for the car bomb attack in Omagh, Northern Ireland on 15 August, which killed 29 and injured 220 persons. Announced a cease-fire after that bombing. Has attempted several unsuccessful bomb attacks on the UK mainland.

Strength: About 70, plus limited support from IRA hardliners dissatisfied with the current IRA cease-fire and other republican sympathizers.

Location/Area of Operation: Northern Ireland, Ireland, Great Britain.

External Aid: Suspected of receiving funds from sympathizers in the United States. Press reports claim Real IRA leaders also have sought support from Libya.

REVOLUTIONARY ARMED FORCES OF COLOMBIA (FARC)*

Description: The largest, best-trained, and best-equipped insurgent organization in Colombia. Established in 1964 as a rural-based, pro-Soviet guerrilla army. Organized along military lines and includes several urban fronts. Has been anti-United States since its inception. The FARC agreed in 1998 to enter into preliminary peace talks with the Colombian Government. The Pastrana administration demilitarized five large rural municipalities to meet FARC conditions for peace talks. (President Pastrana traveled to this area on 7 January 1999 to inaugurate peace talks with guerrilla leaders, although the FARC's senior-most leader failed to attend.)

Activities: Armed attacks against Colombian political, economic, military, and police targets. Many members pursue criminal activities, carrying out hundreds of kidnappings for profit annually. Foreign citizens often are targets of FARC kidnappings. Group has well-documented ties to narcotics traffickers, principally through the provision of armed protection for coca and poppy cultivation and narcotics production facilities, as well as through attacks on government narcotics eradication efforts. Also began in 1998 a bombing campaign against oil pipelines.

Strength: Approximately 8,000–12,000 armed combatants and an unknown number of supporters, mostly in rural areas.

Location/Area of Operation: Colombia, with occasional operations in border areas of Venezuela, Panama, Peru, Brazil, and Ecuador.

External Aid: None.

REVOLUTIONARY ORGANIZATION 17 NOVEMBER (17 NOVEMBER)*

Description: Radical leftist group established in 1975 and named for the student uprising in Greece in November 1973 that protested the military regime. Anti-Greek establishment, anti-US, anti-Turkey, anti-NATO, and committed to the ouster of US bases, removal of Turkish military presence from Cyprus, and severing of Greece's ties to NATO and the European Union (EU). Possibly affiliated with other Greek terrorist groups.

Activities: Initial attacks were assassinations of senior US officials and Greek public figures. Added bombings in 1980s. Since 1990 has expanded targets to include EU facilities and foreign

firms investing in Greece and has added improvised rocket attacks to its methods.

Strength: Unknown, but presumed to be small.

Location/Area of Operation: Athens, Greece.

External Aid: Unknown.

REVOLUTIONARY PEOPLE'S LIBERATION PARTY/FRONT (DHKP/C)*

a.k.a.: Devrimci Sol (Revolutionary Left), Dev Sol

Description: Originally formed in 1978 as Devrimci Sol, or Dev Sol, a splinter faction of the Turkish People's Liberation Party/Front. Renamed in 1994 after factional infighting, it espouses a Marxist ideology and is virulently anti-US and anti-NATO. Finances its activities chiefly through armed robberies and extortion.

Activities: Since the late 1980s has concentrated attacks against current and retired Turkish security and military officials. Began a new campaign against foreign interests in 1990. Assassinated two US military contractors and wounded a US Air Force officer to protest the Gulf war. Launched rockets at US Consulate in Istanbul in 1992. Assassinated prominent Turkish businessman in early 1996, its first significant terrorist act as DHKP/C.

Strength: Unknown.

Location/Area of Operation: Conducts attacks in Turkey—primarily in Istanbul—Ankara, Izmir, and Adana. Raises funds in Western Europe.

External Aid: Unknown.

REVOLUTIONARY PEOPLE'S STRUGGLE (ELA)*

Description: Extreme leftist group that developed from opposition to the military junta that ruled Greece from 1967 to 1974. Formed in 1971, ELA is a self-described revolutionary, anti-capitalist, and anti-imperialist group that has declared its opposition to "imperialist domination, exploitation, and oppression." Strongly anti-US and seeks the removal of US military forces from Greece.

Activities: Since 1974 has conducted bombings against Greek Government and economic targets as well as US military and business facilities. In 1986 stepped up attacks on Greek Government and commercial interests. Raid on a safehouse in 1990 revealed a weapons cache and direct contacts with other Greek terrorist groups, including 1 May and Revolutionary Solidarity. In 1991, ELA and 1 May claimed joint responsibility for over 20 bombings. Greek police believe they have established a link between the ELA and the Revolutionary Organization 17 November. Has not claimed responsibility for a terrorist attack since January 1995.

Strength: Unknown.

Location/Area of Operation: Greece.

External Aid: No known foreign sponsors.

SENDERO LUMINOSO (SHINING PATH, SL)*

Description: Larger of Peru's two insurgencies, SL is among the world's most ruthless guerrilla organizations. Formed in the late 1960s by then university professor Abimael Guzman. Stated goal is to destroy existing Peruvian institutions and replace them with peasant revolutionary regime. Also wants to rid Peru of foreign in-

fluences. Guzman's capture in September 1992 was a major blow, as were arrests of other SL leaders in 1995, defections, and Peruvian President Fujimori's amnesty program for repentant terrorists.

Activities: Has engaged in particularly brutal forms of terrorism, including the indiscriminate use of bombs. Conducted fewer attacks in 1998, generally limited to rural areas. Almost every institution in Peru has been a target of SL violence. Has bombed diplomatic missions of several countries in Peru, including the US Embassy. Conducts bombing campaigns and selective assassinations. Has attacked US businesses since its inception. Involved in cocaine trade.

Strength: Approximately 1,500 to 2,500 armed militants; larger number of supporters, mostly in rural areas.

Location/Area of Operation: Rural based, with few violent attacks in the capital.

External Aid: None.

17 NOVEMBER

(see Revolutionary Organization 17 November)

SIKH TERRORISM

Description: Sikh terrorism is sponsored by expatriate and Indian Sikh groups who want to carve out an independent Sikh state called Khalistan (Land of the Pure) from Indian territory. Active groups include Babbar Khalsa, International Sikh Youth Federation, Dal Khalsa, Bhinderanwala Tiger Force. A previously unknown group, the Saheed Khalsa Force, claimed credit for the marketplace bombings in New Delhi in 1997.

Activities: Attacks in India are mounted against Indian officials and facilities, other Sikhs, and Hindus; they include assassinations, bombings, and kidnappings. Attacks have dropped markedly since 1992, as Indian security forces have killed or captured numerous senior Sikh militant leaders and have conducted successful army, paramilitary, and police operations. Many low-intensity bombings that might be attributable to Sikh extremists now occur without claims of credit.

Strength: Unknown.

Location/Area of Operation: Northern India, western Europe, Southeast Asia, and North America.

External Aid: Militant cells are active internationally and extremists gather funds from overseas Sikh communities. Sikh expatriates have formed a variety of international organizations that lobby for the Sikh cause overseas. Most prominent are the World Sikh Organization and the International Sikh Youth Federation.

TUPAC AMARU REVOLUTIONARY MOVEMENT (MRTA)*

Description: Traditional Marxist-Leninist revolutionary movement formed in 1983. Aims to rid Peru of imperialism and establish Marxist regime. Has suffered from defections and government counterterrorist successes in addition to infighting and loss of leftist support.

Activities: Bombings, kidnappings, ambushes, assassinations. Previously responsible for large number of anti-US attacks; recent

activity has dropped off dramatically. Most members have been jailed. Nonetheless, in December 1996, 14 MRTA members overtook the Japanese Ambassador's residence in Lima during a diplomatic reception, capturing hundreds. Government forces stormed the residence in April, 1997 rescuing all but one of the remaining hostages. Has not conducted a significant terrorist operation since then.

Strength: Believed to have fewer than 100 remaining members.

Location/Area of Operation: Peru.

External Aid: None.

AL UMMAH

Description: Radical Indian Muslim group founded in 1992 by S.A. Basha.

Activities: Believed responsible for the Coimbatore bombings in Southern India in February 1998. Basha and 30 of his followers were arrested and await trial for those bombings.

Strength: Unknown. No estimate available.

Location/Area of Operation: Southern India.

External Aid: Unknown.

ZVIADISTS

Description: Extremist supporters of deceased former Georgian President Zviad Gamsakhurdia. Following Gamsakhurdia's ouster in 1991, his supporters launched a revolt against his successor, Eduard Shevardnadze. Suppressed in late 1993, and Gamsakhurdia committed suicide in January 1994. Some Gamsakhurdia sympathizers have formed a weak legal opposition in Georgia, but others remain violently opposed to Shevardnadze's rule and seek to overthrow him. Some Gamsakhurdia government officials fled to Russia following Gamsakhurdia's ouster and now use Russia as a base of operations to bankroll anti-Shevardnadze activities.

Activities: Bombings and kidnappings. Attempted two assassinations against Shevardnadze in August 1995 and February 1998. Took UN personnel hostage following the February 1998 attempt, but released the hostages unharmed.

Strength: Unknown.

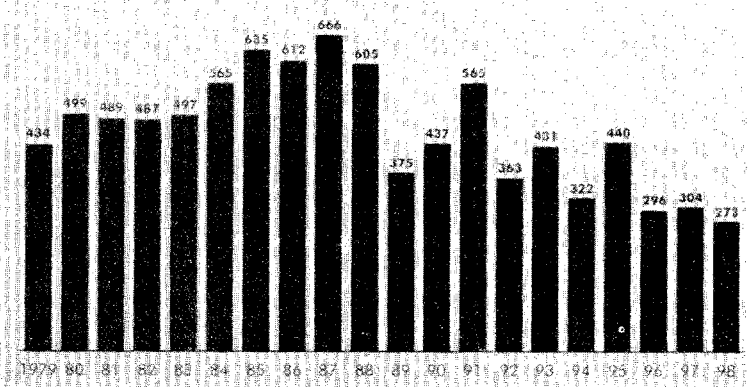
Location/Area of Operation: Georgia, especially Mingrelia, and Russia.

External Aid: May have received support and training in Chechen terrorist training camps. Chechen mercenaries participated in the assassination attempt against Shevardnadze in February 1998.

APPENDIX C: STATISTICAL REVIEW

Apendix C
Statistical Review

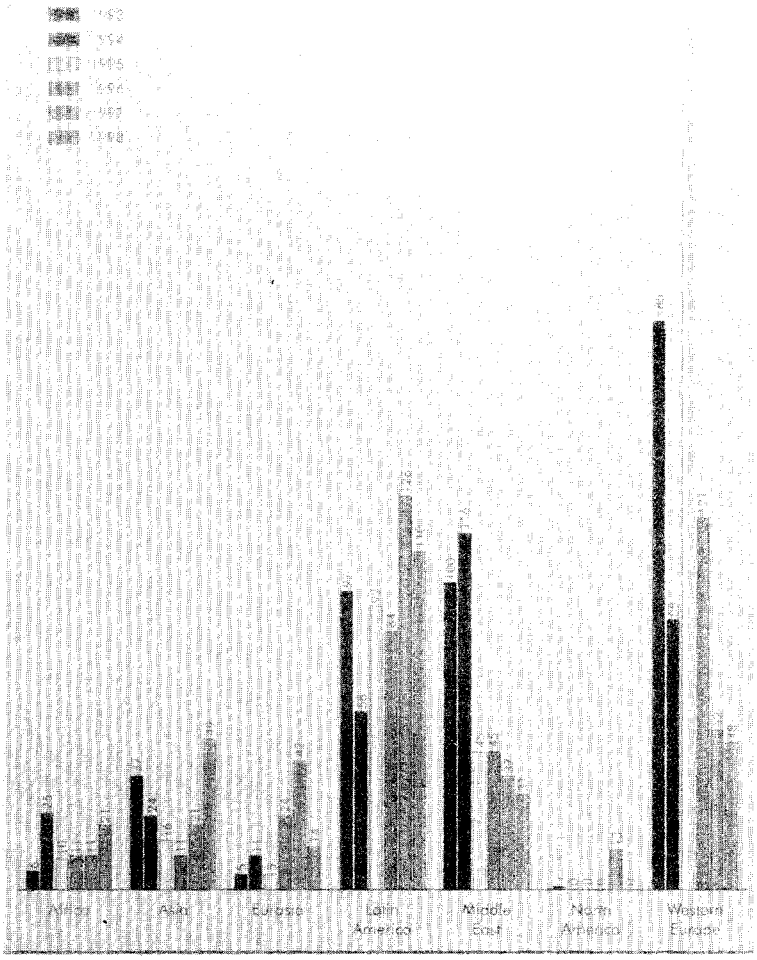
Total International Terrorist Attacks, 1979-98



In past years, serious violence by Palestinians against other Palestinians in the occupied territories was included in the database of worldwide international terrorist incidents because Palestinians are considered stateless people. This resulted in such incidents being treated differently from intraethnic violence in other parts of the world. In 1989, as a result of further review of the nature of intra-Palestinian violence, such violence stopped being included in the US Government's statistical database on international terrorism. The figures shown above for the years 1984 through 1988 have been revised to exclude intra-Palestinian violence, thus making the database consistent.

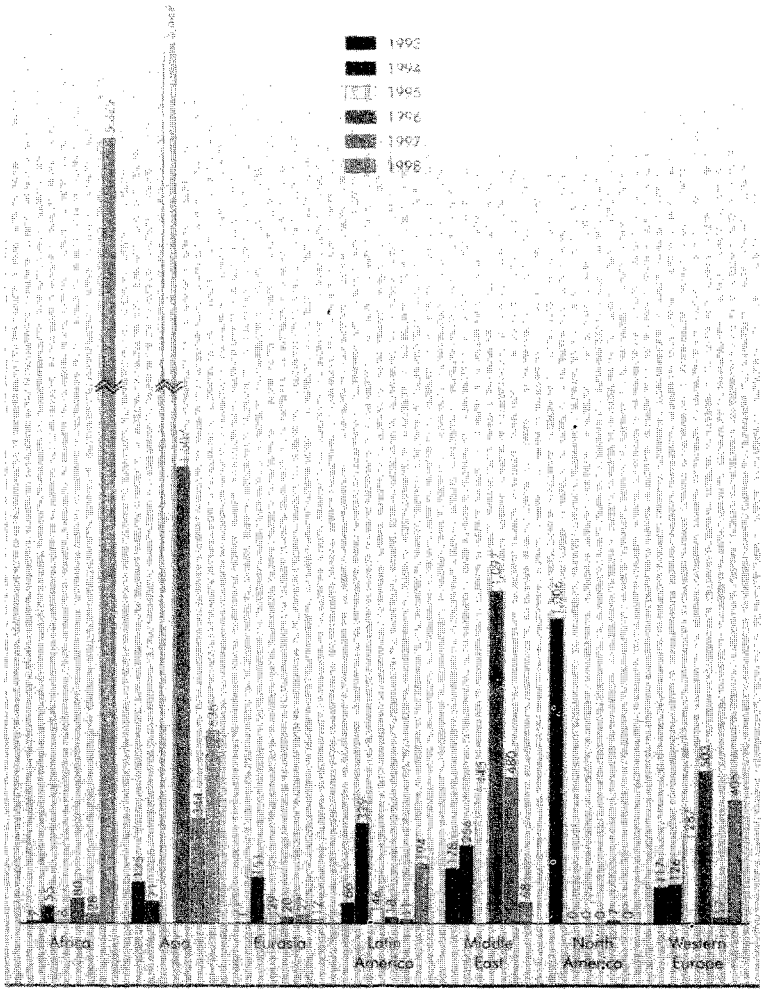
Investigations into terrorist incidents sometimes yeild evidence that necessitates a change in the information previously held true (such as whether the incident fits the definition of international terrorism, which group or state sponsor was responsible, or the number of victims killed or injured). As a result of these adjustments, the statistics given in this report may vary slightly from numbers cited in previous reports.

Total International Attacks by Region, 1993-98

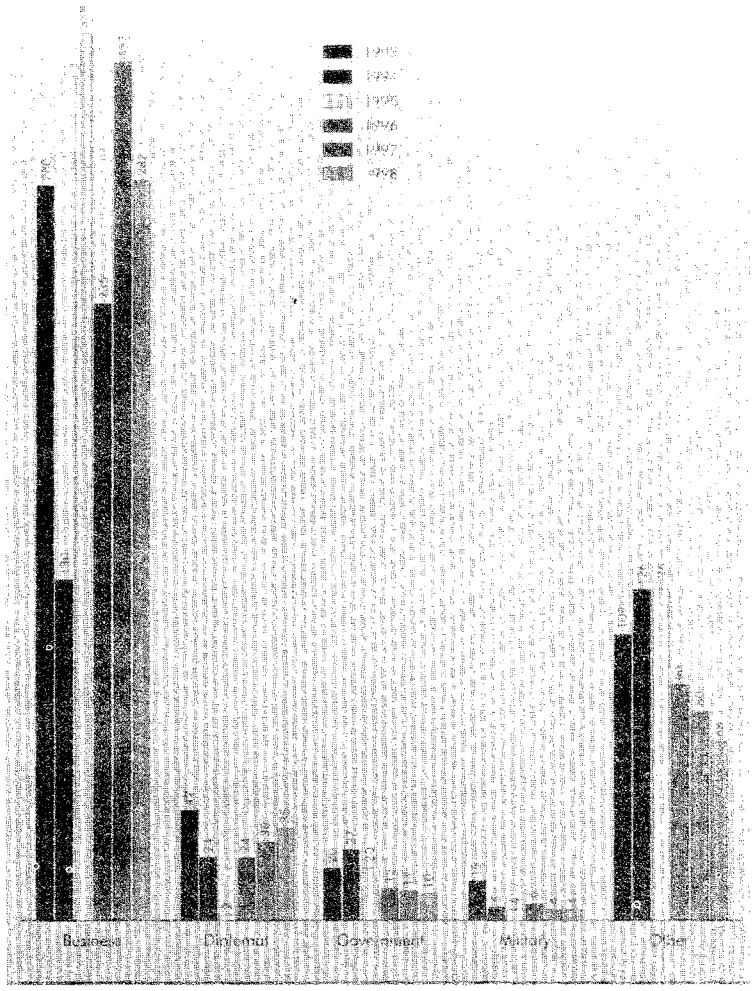


Total International Casualties by Region, 1993-98

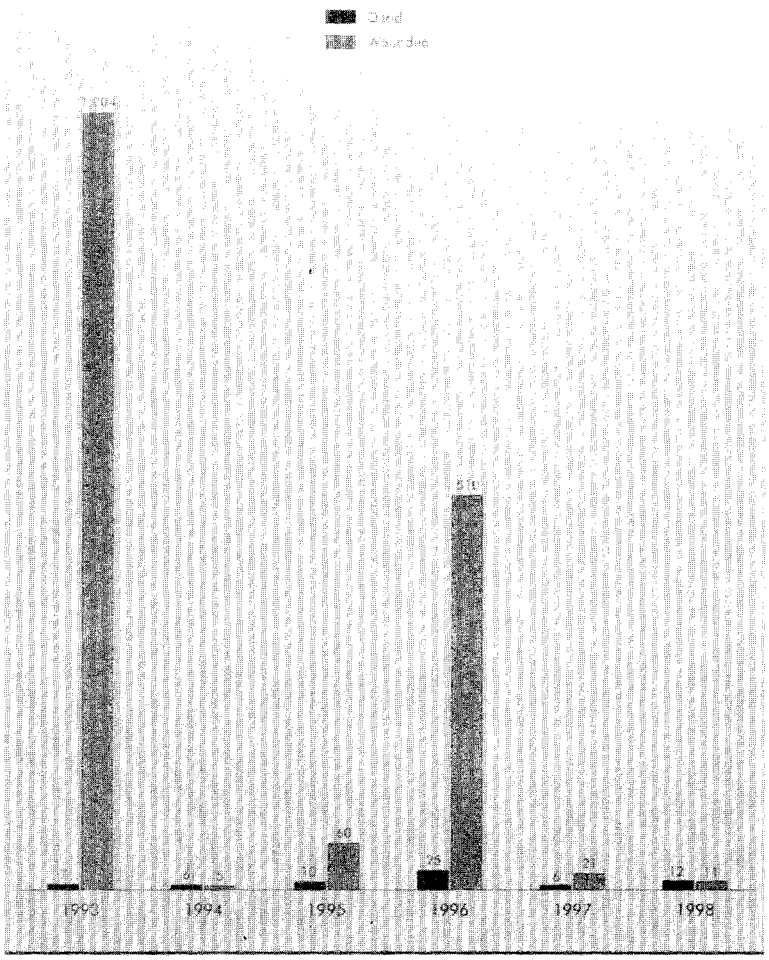
Note scale break



Total Facilities Struck by International Attacks, 1993-98

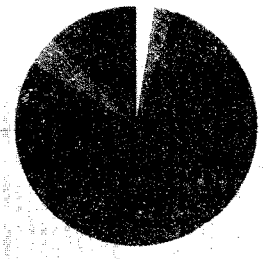


Total US Citizen Casualties Caused by International Attacks, 1993-98



Total Anti-US Attacks 1998

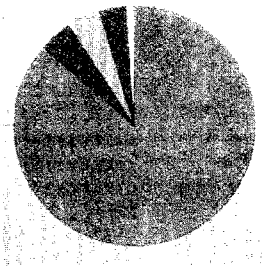
Region[1]



[1]Includes attacks against US facilities and attacks in which US citizens suffered casualties.

Total - 111

Type of Event[1]



[1]Includes attacks against US facilities and attacks in which US citizens suffered casualties.

Total - 111

Total US Casualties

Total - 23

APPENDIX D: EXTRADITIONS AND RENDITIONS OF TERRORISTS TO THE U.S. 1993–1998

Date	Name	Extradition or Rendition	From
March 1993	Mahmoud Abu Halima (February 1993 World Trade Center bombing)	Extradition	[a]
July 1993	Mohammed Ali Rezaq (November 1985 hijacking of Egyptair 648)	Rendition	Nigeria
February 1995	Ramzi Ahmed Yousef (January 1995 Far East bomb plot, February 1993 World Trade Center bombing	Extradition	Pakistan
April 1995	Abdul Hakim Murad (January 1995 Far East bomb plot)	Rendition	Philippines
August 1995	Eyad Mahmoud Ismail Najim (February 1993 World Trade Center bombing)	Extradition	Jordan
December 1995	Wali Khan Amin Shah (January 1995 Far East bomb plot)	Rendition	[a]
September 1996	Tsutomu Shirosaki (May 1986 attack on US Embassy Jakarta)	Rendition	[a]
June 1997	Mir Aimal Kansi (January 1993 shooting outside CIA headquarters)	Rendition	[a]
June 1998	Mohammed Rashid (August 1982 Pan Am bombing)	Rendition	[a]
August 1998	Mohamed Rashed Daoud Al-Owhali (August 1998 US Embassy bombing in Kenya)	Rendition	Kenya
August 1998	Mohamed Sadeek Odeh (August 1998 U.S. Embassy bombing in Kenya)	Rendition	Kenya
December 1998	Mamdouh Mahmud Salim (August 1998 East African bombings)	Extradition	Germany

[a] Country not disclosed.

b. Antiterrorism Assistance Program: Annual Report—Fiscal Year 1997 [Pursuant to Public Law 99–83, sec. 502]

EXECUTIVE SUMMARY

The Office of Antiterrorism Assistance, Bureau of Diplomatic Security, is responsible for managing the Antiterrorism Assistance (ATA) Program under policy guidance from the Office of the Coordinator for Counterterrorism (S/CT). The two offices work closely to ensure excellence in training and overall program effectiveness.

In FY1997 the ATA Program provided assistance to 65 countries. Since the first country took part in the ATA Program in 1984 over 19,000 persons from 104 countries have participated.

ATA Program course materials and instructors continue to be important resources in the U.S. Government's coordinated efforts to combat international terrorism. This section summarizes the priorities and accomplishments of the ATA Program.

Selected Program Activities

During FY1997 the Antiterrorism Assistance Program carried out the following activities:

- Trained 1,171 students from 27 countries;
- Conducted 58 courses in 19 subject areas;
- Provided $658,000 in equipment and commodities to 27 countries.
- Participated in 23 technical consultations, and conferences;
- Conducted seven in-country program evaluations;
- Conducted six in-country training needs assessments;
- Implemented an increased regional program in the Middle East, and resumed assistance to Sri Lanka; and
- Conducted six Airport Security Management Courses.

INTRODUCTION

The Department of State's Antiterrorism Assistance (ATA) Program is a major pillar of the U.S. Government's efforts to work closely with friendly nations in the international fight against terrorism.

Since its inception in 1983 as a means of providing specialized training and equipment to nations facing terrorist threats, the program has provided training and assistance to over 19,000 law enforcement personnel from 104 countries. In this process, the program has raised the consciousness of foreign decision makers for greater international cooperation and preparedness.

By increasing each country's ability to defend itself against terrorism, the program achieves an ancillary U.S. policy objective -- greater security for U.S. personnel and facilities worldwide.

The Antiterrorism Assistance Program is also utilized to underscore the United States' concerns for Human Rights. Prior to any nation receiving assistance, the Department conducts a current review of that country's human rights record.

Training

The following criteria are utilized to qualify countries for equipment and training assistance:

- The country or region is categorized as critical or high threat for terrorism and cannot adequately protect U.S. facilities and personnel in the country (i.e., official, business, and tourism);
- The country is served by a U.S. air carrier or is the last point of departure for flights to the United States;
- There are important bilateral policy interests which may be supported through the provision of antiterrorism assistance.

Policy and Coordination

Policy direction for the Antiterrorism Assistance Program is provided by the Office of the Coordinator for Counterterrorism (S/CT). As assistance needs far exceed availability of program resources, offerings are prioritized to reflect national and Department policy objectives.

Responsibility for program design, implementation, oversight and evaluation rests with the Department's Bureau of Diplomatic Security, Office of Antiterrorism Assistance. Individual assistance plans are formulated based upon assessment findings conducted by joint S/CT and ATA functional specialist assessment teams.

Training provided under the ATA Program seeks to address deficiencies noted in any of five major areas:

The ability to protect national borders
The ability to protect vital installations
The ability to protect the national leadership
The ability to respond to and resolve a terrorist incident
The ability to conduct and manage a post-terrorism investigation

In addition to ATA-provided training, coordination of all other U.S. Government terrorism related training falls under the Department's Coordinator for Counterterrorism. This includes assistance provided by the Departments of Defense, Justice, Transportation, Treasury, and the Central Intelligence Agency. Not all law enforcement training programs have a specific terrorism mandate. However, training such as that provided under the Department of Justice International Criminal Investigative Training Assistance Program (ICITAP) complements the investigative procedures provided under the ATA program.

The formal coordination mechanism for all such training is provided by the training subcommittee of the Interagency Working Group for Counterterrorism, (IWG/CT), also headed by the Coordinator for Counterterrorism. The goal of the subcommittee is to minimize duplication of effort and ensure policy achievement. Coordination between the Office of International Law Enforcement and the ATA program is continuous, ensuring all Department-provided assistance is mutually supportive.

U.S. Embassies play a continual role in the development, implementation, and oversight of all ATA provided assistance. As with the initial needs assessment, Embassy assessment of program effectiveness and selection of training candidates are essential to policy achievement. Coordination for such activity rests with the Embassy country team or, if available, the law enforcement council, which consists of the U.S. law enforcement agencies represented in the host country.

International cooperation is fostered at the embassy and international level utilizing local and bilateral forums. While joint training is not provided, informal consultations with countries such as Australia, Canada, France, and the United Kingdom seek to avoid duplicative training. In response to a call for greater cooperation, the U.S., during its chairmanship of the Eight (formerly the Summit 7), sponsored a three-day conference on major event security management, September 3-5, 1997. Sixteen nations participated in the conference.

The international terrorist threat remains complex and dynamic. In meeting this challenge, the United States draws upon a variety of capabilities, including diplomatic efforts, economic sanctions, physical security measures and intelligence sharing and training. The following section of this report provides an overview of ATA activities in support of this effort.

PROGRAM IMPACT

Program evaluations often provide a measure of the success of ATA training but they are not the only means to gauge the effectiveness of the ATA Program. The following illustrations are drawn from the results of evaluations and U.S. Embassy reporting cables:

+ ATA trained one of two SWAT Teams in Lima, Peru. An ATA-trained negotiator secured the release of the first hostages shortly after the takeover of the Japanese Ambassador's residence by Tupac Amaru guerillas. Further, Peruvian authorities credited ATA training as contributing to the capture of Abimael Guzman, founder of Sendero Luminoso.

+ A Mediterranian nation, which only two months previously completed an ATA course in Maritime Security, credited this training with securing almost six tons of cocaine in a failed smuggling attempt.

+ The success of the Explosive Detector Dog program is notable. Besides routine discoveries of weapons and ammunition, one canine found a landmine in preparation for a VIP visit and another found a pipe bomb during the search of a residence.

+ In a Central American country the police assigned an ATA-trained negotiator to act as intermediary between the family of a kidnapped American citizen and the kidnapping gang which abducted her. This, and extensive ATA training provided to the national police, contributed to the breakup of a multinational kidnapping ring.

+ The ATA Program sponsored two international conferences of far-reaching importance. One was a symposium composed of the directors of 16 Latin American national police academies on methods to institutionalize and improve the delivery of antiterrorism training in the region.* The other was a conference on security at major international events such as the Olympics. Australia, Canada, France, Japan, and the United Kingdom, served as associate hosts for the conference.

*Countries participating:

Argentina	Guatemala	Panama
Bolivia	Guyana	Paraguay
Chile	Honduras	Surinam
Costa Rica	Mexico	Uruguay
Ecuador	Nicaragua	Venezuela
El Salvador		

PROGRAM EVALUATIONS AND NEEDS ASSESSMENTS

Program evaluations are conducted to determine the results and effectiveness of the assistance which has been provided through the ATA Program. An in-country program evaluation is performed by a team which includes representatives of ATA, the Office of the Coordinator for Counterterrorism, and various subject-matter experts. The information obtained through this process enables ATA managers to identify possible ways to strengthen course material, and to provide specifics for determining appropriate additional assistance.

Country	Date	Topics Covered
Tunisia	10/96	VIP Protection, Explosives Incident Counter-Measures (EIC), Post Blast Investigation (PBI), Crisis Response Teams (CRT)
Thailand	5/97	VIP, EIC, PBI
St.Kitts & Nevis	6/97	VIP, EIC
Trinidad & Tobago	6/97	VIP, EIC
Bolivia	7/97	VIP, PBI, EIC, CRT, Hostage Negotiations.
Peru	9/97	VIP, PBI, EIC, CRT, Hostage Negotiations.
Ecuador	9/97	VIP, PBI, EIC, CRT, Hostage Negotiations.

A similar process is applied to determine the training needs of countries new to the program, or for establishing a comprehensive point of reference for expanding an ongoing program. Training needs assessments were conducted in the following countries during FY1997:

Country	Date
Morocco	10/96
Malaysia	10/96
Panama	11/96
Bosnia-Herzegovina	2/97
Kuwait	4/97
Bahrain	4/97
Qatar	4/97
Yemen	5/97
Oman	5/97
United Arab Emirates	5/97
Egypt	7/97
Ethiopia	8/97

ANTITERRORISM ASSISTANCE PROGRAM

TRAINING ACTIVITIES FOR FISCAL YEAR 1997

(Listed by Region/Country)

REGION/COUNTRY	*Course*	*Date*	*Site*	*Students*
AFRICA				
SENEGAL	Airport Security Management	2/97	OK	24
	Airport Security Management Seminar	3/97	OK	3
INTER-AMERICA				
ARGENTINA	Explosive Detector Dogs & Handlers	5/97	VA	12
	Role of Police in Managing a Crisis	8/97	LA	24
BOLIVIA	Explosive Incident Countermeasures	1/97	LA	15
BRAZIL	Explosive Incident Countermeasures	6/97	LA	13
	Major Case Management	8/97	VA	23
	Crisis Response Team	8/97	LA	23
	Post Blast Investigation	9/97	LA	24
CHILE	Role of Police in Managing a Crisis	3/97	LA	24
	Senior Crisis Management	4/97	VA	19
EL SALVADOR	Airport Security Management	1/97	OK	24
	Explosives Laboratory Internship	2/97	VA	1
	Major Case Management	3/97	VA	25
GRENADA	VIP Protection	7/97	LC*	17
HONDURAS	Airport Security Management Seminar	7/97	OK	24
	Post Blast Investigation	5/97	GA	24
PARAGUAY	Crisis Response Team	1/97	LA	24
PERU	Antiterrorism Urban Patrol	11/96	LA	24
VENEZUELA	Explosive Incident Countermeasures	4/97	LA	15
	Role of Police in Managing a Crisis	4/97	LA	24
EAST ASIA & PACIFIC				
MALAYSIA	Airport Security Management	4/97	OK	24
	Explosive Incident Countermeasures	8/97	LA	15
	Hostage Negotiation	12/96	LA	24
THAILAND	Hostage Negotiation	4/97	LA	24
EUROPE				
ALBANIA	Vital Installation Security	10/96	GA	24
BOSNIA	Senior Crisis Management	8/97	VA	28
CYPRUS	Explosive Incident Countermeasures	2/97	LA	15
	Post Blast Investigation	5/97	LA	24
	Major Case Management	7/97	VA	24
F.Y.R.O.M.	Hostage Negotiation	1/97	LA	24
ITALY	Explosive Detector Dogs & Handlers	1/97	VA	10
TURKEY	Criminal Justice Executive Forum	5/97	VA	20

REGION/COUNTRY	*Course*	*Date*	*Site*	*Students*
NEAR EAST				
EGYPT	Explosive Detector Dogs & Handlers	8/97	VA	14
	Post Blast Investigation	3/97	LA	24
	Hostage Negotiation	6/97	LA	24
	Surveillance Detection	12/96	VA	12
ISRAEL	Crisis Response Team	3/97	LA	24
	Crisis Response Team	6/97	LA	24
JORDAN	Explosive Detector Dogs & Handlers	6/97	VA	14
	VIP Protection	5/97	VA	18
	Surveillance Detection	11/96	VA	12
	Role of Police in Managing a Crisis	1/97	LA	24
	Antiterrorism Exercise	3/97	I/C*	--
	Crisis Response Team	4/97	LA	24
	Terrorist Crime Scene Investigation	7/97	I/C*	18
MOROCCO	Port Security Seminar	6/97	I/C*	45
	Terrorist Interdiction Seminar	6/97	I/C*	30
	Criminal Justice Executive Seminar	8/97	VA	20
	Explosive Incident Countermeasures	9/97	LA	15
SAUDI ARABIA	Surveillance Detection	4/97	VA	17
	Airport Security Management	5/97	I/C*	25
TUNISIA	Maritime Law Enforcement	3/97	GA	20
SOUTH ASIA				
INDIA	Explosive Incident Countermeasures	11/96	LA	15
	Post Blast Investigation	2/97	LA	24
	Vital Installation Security	3/97	GA	24
	VIP Protection	6/97	VA	18
SRI LANKA	Role of Police in Managing a Crisis	2/97	LA	24

* I/C = In country

TECHNICAL CONSULTATIONS & CONFERENCES

The ATA Program conducts periodic technical consultations with participating countries with the aid of State Department and outside experts. These consultations, which can be held either in the United States or the participating country, focus on a specific area or areas of concern.

The ATA Program conducted the following consultations in FY1997:

Country	Dates	Focus
Argentina	10/96	Border Control
Brazil	10/96	Border Control
Paraguay	10/96	Border Control
Jordan	10/96	Detector Dogs
Italy	10/96	Detector Dogs
Turkey	11/96	Border Control
Israel	1/97	Explosives Detection Conference
ARA Regional*	1/97	Police Academy Directors
Sri Lanka	1/97	Explosives Detection Conference
Cyprus	1/97	Detector Dog Check-Back
Ecuador	3/97	Police Academy Development
United Kingdom	3/97	Explosive Search Methods
United Kingdom	3/97	Training Coordination
Morocco	3/97	Police Academy
Jordan	4/97	Bomb Detector Dogs
Israel	6/97	Airborne Border Surveillance
Tunisia	6/97	Detector Dogs
Israel	6/97	Border Control
Egypt	7/97	Detector Dog Check-Back
Australia	8/97	Preparations for Detector Dog Training
Malaysia	8/97	Preparations for Detector Dog Training
Israel	9/97	Border Control
Multi-National **	9/97	Major Event Security Conference

Participating countries:

*Argentina, Bolivia, Chile, Costa Rica, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Paraguay, Surinam, Uruguay, Venezuela

** Australia+, Brunei, Canada+, Chile, France+, Germany, Italy, Japan+, Korea, Malaysia, New Zealand, Philippines, Singapore, South Africa, United Kingdom+

(+ designates Associate Host)

EQUIPMENT

The ATA Program is authorized to obligate up to 30 percent of its annual budget to provide training-related equipment and commodities to participating countries. During FY1997, $658,000 of program funds were obligated for the following items:

Type of Equipment

Body Armor
Bomb Robot
Bomb X-Ray Machines
Dogs for Explosives Detection
Hostage Rescue Team Equipment
Kits for Crime Scene Investigation
Metal Detectors
Radios and Related Equipment
Portable Telephones for Hostage Negotiations
Tool Kits for Bomb Countermeasure Teams
Veterinary Supplies for Bomb Detector Dogs
X-Ray Machines for Airport Security

Equipment and commodities were provided to the following 27 countries:

Antigua
Barbados
Bolivia
Brazil
Bulgaria
Cyprus
Dominica
Egypt
F.Y.R.O.M.*
Grenada
Hungary
India
Israel
Italy
Jordan
Lithuania
Malaysia
Morocco
Paraguay
Saudi Arabia
St. Kitts/Nevis
St. Lucia
St. Vincent
Thailand
Trinidad & Tobago
Tunisia
Venezuela

*Former Yugoslav Republic of Macedonia

TRAINING AND TRAINING-RELATED ACTIVITIES

FY1997 funds utilized for 65 countries participating in one or more elements of the ATA Program are shown below. (listed alphabetically)

COUNTRY	$ (000)	COUNTRY	$ (000)
Albania	126	Korea	< 50
Antigua	< 50	Kuwait	< 50
Argentina	579	Lithuania	< 50
Australia	< 50	Malaysia	953
Bahrain	< 50	Mexico	< 50
Barbados	< 50	Morocco	548
Bolivia	581	New Zealand	< 50
Bosnia	200	Nicaragua	< 50
Brazil	1,361	Oman	< 50
Brunei	< 50	Panama	< 50
Bulgaria	< 50	Paraguay	484
Canada	< 50	Peru	288
Chile	296	Philippines	< 50
Costa Rica	< 50	Qatar	< 50
Cyprus	851	Saudi Arabia	211
Dominica	< 50	Senegal	385
Ecuador	< 50	Singapore	< 50
Egypt	978	Sri Lanka	200
El Salvador	362	St. Kitts/ Nevis	< 50
Ethiopia	< 50	St. Lucia	< 50
France	< 50	St. Vincent	< 50
F.Y.R.O.M.	157	South Africa	< 50
Germany	< 50	Surinam	< 50
Grenada	< 50	Thailand	167
Guatemala	< 50	Trinidad & Tobago	< 50
Guyana	< 50	Tunisia	298
Honduras	360	Turkey	216
Hungary	< 50	United Arab	< 50
India	828	United Kingdom	< 50
Israel	1,337	Uruguay	< 50
Italy	472	Venezuela	713
Japan	< 50	Yemen	< 50
Jordan	1,794		

COUNTRY PARTICIPATION

The following countries have participated in one or more activities of the ATA Program since its inception in 1983 (through September 30, 1997)

Albania	Dominica	Japan *	Qatar
Antigua &Barbuda	Dominican Republic	Jordan	Romania
Argentina	Ecuador	Kenya	Russia
Australia *	Egypt	Korea *	St. Kitts & Nevis
Bahamas	El Salvador	Kuwait	St. Lucia
Bahrain	Estonia	Latvia	St Vincent
Barbados	Ethiopia *	Liberia	Saudi Arabia
Bolivia	France *	Lithuania	Senegal
Bosnia & Herzegovina	F.Y.R.O.M.	Malaysia	Singapore
Brunei	Gabon	Mali	Somalia
Bulgaria	Germany *	Mauritania	South Africa
Burkina Faso	Georgia	Mexico	Spain
Burundi	Ghana	Morocco *	Sri Lanka
Cameroon	Greece	Netherlands	Surinam *
Canada *	Grenada	New Zealand *	Thailand
Central African Republic	Guatemala	Nicaragua *	Togo
Chad	Guinea	Niger	Trinidad & Tobago
Chile	Guyana *	Norway	Tunisia
Colombia	Honduras	Oman	Turkey
Peoples Republic of the Congo	Hong Kong	Pakistan	Ukraine
Costa Rica	Hungary	Panama	United Arab Emirates
Cote d'Ivoire	India	Paraguay	United Kingdom
Cyprus	Indonesia	Peru	Uruguay
Czechoslovakia	Israel	Philippines	Vanuatu
Czech Republic	Italy	Poland	Venezuela
Denmark	Jamaica	Portugal	Zaire

* New in FY1997

c. Foreign Terrorist Organizations

Designation and list of foreign terrorist organizations

OFFICE OF THE COORDINATOR FOR COUNTERTERRORISM
U.S. DEPARTMENT OF STATE
OCTOBER 8, 1997

THE DESIGNATIONS

- The Secretary of State has designated 30 groups as foreign terrorist organizations. Her action sends a powerful signal that the United States will not tolerate support for international terrorism.
- The Secretary acted under the authority provided by the Antiterrorism and Effective Death Penalty Act of 1996, with the concurrence of the Attorney General and the Secretary of the Treasury.
- On October 1, the State Department notified Congress of the Secretary's intent to designate 30 foreign terrorist organizations. Congress also received the factual bases for her decisions on each of the 30 designations.
- A formal announcement of the designations was placed in the Federal Register on October 8, and the Department of the Treasury has notified financial institutions to block funds of the designated organization.
- The designations are a significant addition to our enforcement tools against international terrorists and their supporters. They supplement the Executive Order the President signed in January 1995 (and has renewed annually), which blocks funds of 12 Middle Eastern organizations that use or threaten to use violence to disrupt the Middle East Peace Process.

LEGAL CONSEQUENCES

- The 1996 law makes it a criminal offense to provide funds or other forms of material support or resources, such as weapons or safehouses, to designated foreign terrorist organizations.
  —The law applies to anyone within the United States or subject to the jurisdiction of the United States.
  —Violators are subject to fines and up to 10 years in prison.
- Aliens abroad who are members or representatives of designated foreign terrorist organizations are ineligible for visas to the U.S. and are subject to exclusion from the U.S.
- U.S. financial institutions are required to block those funds of designated foreign terrorist organizations or their agents over which they have possession or control. They are subject to civil penalties and possible criminal prosecution if they do not conform with the law and regulations.

THE PROCESS

- The designations are subject to judicial review, as the statute required, and extensive administrative records were created to substantiate each recommendation to the Secretary of State. A major interagency effort included the examination of thousands of pages of documents and the preparation of a complete administrative record on each group.
  - —The administrative records are and will remain classified. Unclassified descriptions of terrorist organizations, including those formally designated, appear in the annex of the Department's annual report, Patterns of Global Terrorism, which is available on the State Department's web site.
- The designations expire in two years unless renewed. The law also allows groups to be added at any time following a decision by the Secretary, in consultation with the Attorney General and the Secretary of the Treasury. Designations can also be revoked if the Secretary determines that there are grounds for doing so and notifies Congress. Congress can also pass legislation to revoke designations.

BACKGROUND

- The law responded to concerns that foreign terrorist organizations were raising money in the United States. Some groups have tried to broaden their financial base because state sponsors were becoming less reliable sources of money.
- Some terrorist organizations have tried to portray themselves as raising money for charitable activities such as clinics or schools. These activities have helped recruit supporters and activists.
- Congress noted in the statement of findings in the legislation:
  - —Foreign organizations that engage in terrorist activity are so tainted by their criminal conduct that any contribution to such an organization facilitates that conduct." (Section 301(a)(7)).
  - —Therefore, any contribution to a foreign terrorist organization, regardless of the intended purpose, is prohibited by the statute, unless the contribution is limited to medicine or religious materials.

FOREIGN TERRORIST ORGANIZATIONS

OFFICE OF THE COORDINATOR FOR COUNTERTERRORISM
DEPARTMENT OF STATE, OCTOBER 8, 1997.

- Abu Nidal Organization (ANO)
- Abu Sayyaf Group (ASG)
- Armed Islamic Group (GIA)
- Aum Shinrikyo (Aum)
- Euzkadi Ta Askatasuna (ETA)
- Democratic Front for the Liberation of Palestine-Hawatmeh Faction (DFLP)
- HAMAS (Islamic Resistance Movement)
- Harakat ul-Ansar (HUA)
- Hizballah (Party of God)

- Gama'a al-Islamiyya (Islamic Group, IG)
- Japanese Red Army (JRA)
- al-Jihad
- Kach
- Kahane Chai
- Khmer Rouge
- Kurdistan Workers' Party (PKK)
- Liberation Tigers of Tamil Eelam (LTTE)
- Manuel Rodriguez Patriotic Front Dissidents (FPMR/D)
- Mujahedin-e Khalq Organization (MEK, MKO)
- National Liberation Army (ELN)
- Palestine Islamic Jihad-Shaqaqi Faction (PIJ)
- Palestine Liberation Front-Abu Abbas Faction (PLF)
- Popular Front for the Liberation of Palestine (PFLP)
- Popular Front for the Liberation of Palestine-General Command (PFLP-GC)
- Revolutionary Armed Forces of Colombia (FARC)
- Revolutionary Organization 17 November (17 November)
- Revolutionary People's Liberation Party/Front (DHKP/C)
- Revolutionary People's Struggle (ELA)
- Shining Path (Sendero Luminoso, SL)
- Tupac Amaru Revolutionary Movement (MRTA)

d. Report To Congress Concerning the Administration's Comprehensive Counterterrorism Strategy: Agency Resource Requirements, April 29, 1997 (unclassified excerpts)

3. AGENCY RESOURCE REQUIREMENTS

A. DEPARTMENT OF JUSTICE

The Department of Justice is requesting $417,683,000 and 2,984 positions (1,579 agents and attorneys) in FY 1998 for counterterrorism programs, an increase of more than $50,000,000 over the FY 1997 appropriations level. The Department's counterterrorism budget has increased 360 percent since 1993, reflecting the heightened threat from domestic and international terrorism and the substantial expansion in the Department's counterterrorism responsibilities pursuant to PDD–39, the 1996 anti-terrorism law, the President's Executive order on critical infrastructure protection, and recent Congressional appropriations initiatives. (U)

A substantial portion of the increase in FY 1998 is required to annualize the enhancements provided in the FY 1997 appropriations process, which more than doubled the Department's counterterrorism resources. The Department is requesting a limited number of enhancements in FY 1998, primarily to bolster the Department's ability to locate, apprehend and prosecute persons suspected of terrorist activities. (U)

Federal Bureau of Investigation. In FY 1998, the FBI is requesting $287,598,000 for 2,632 positions (1,350 agents) and 2,592 FTEs for counterterrorism activities, an increase of more than $40,000,000 over the FY 1997 enacted level. The increase is required to annualize the enhancements provided in the FY 1997 counterterrorism appropriations amendment. In addition, the 1998 budget requests $6,000,000 for additional regional computer crime squads. (U)

The resource requirements of the FBI are dictated largely' by its responsibilities under PDD–39. The FBI has lead-agency responsibility for investigating terrorist acts in the United States by foreign or domestic terrorist groups and for such attacks against U.S. citizens or interests abroad; providing an operational. response to terrorist incidents in the United States; leading and managing the Domestic Emergency Support Team in domestic incidents; collecting, analyzing and disseminating intelligence on terrorist groups in the United States, including threat warnings; and preventing, detecting and deterring terrorist attacks involving weapons of mass destruction. (U)

To meet the FBI's responsibility to investigate terrorist acts committed in the United States or directed at U.S. citizens or interests abroad, the FY 1997 counterterrorism appropriations amendment

provided $27,800,000 and 331 positions for emerging domestic terrorism; $2,700,000 for Joint Terrorism Task Force matters; and $17,900,000 and 216 positions for infrastructure vulnerability and key asset matters. The FBI's FY 1998 budget request seeks annualized base-level funding for each of these and related programs funded in FY 1997. (U)

The FBI also is responsible for identifying critical national information and other infrastructure and developing plans to harden such targets against terrorist attack and/or respond to actual terrorist attacks. The FBI's Critical Infrastructure Threat Assessment Center (CITAC) and infrastructure vulnerability/key asset program require continued funding for the 63 CITAC and 216 key asset positions provided in FY 1997. (U)

To enhance FBI's ability to coordinate the collection, analysis and dissemination of counterterrorism information, the FBI is seeking annualized base-level funding for 31 positions in the counterterrorism Center, continued funding for state and local participation in the Center, and two field translation centers staffed with contract translators. (U)

The FBI resource requirements discussed above are in addition to the $77,140,000 enhancement provided in the 1995 supplemental terrorism bill, including initial funding for the FBI's Counterterrorism Center ($10,000,000), evidence response teams ($2,900,000), lab equipment modernization ($2,100,000), 427 new positions for counterterrorism investigations, intelligence collection and analysis, and technical support ($48,040,000) . Approximately $52,100,000 of the 1995 supplement appropriation had been obligated as of January 31, 1997, with the multi-year capital projects constituting the balance of the unobligated funds. (U)

Criminal Division. The Department is requesting 82 positions, 55 attorneys, and $11,064,000 for the Criminal Division's counterterrorism activities. This represents a program increase of 22 positions, 10 attorneys, and $3,113,000 from the Division's FY 1998 base level. (U)

The Criminal Division plays an important role in implementing the components of the terrorism strategy involving the swift investigation, apprehension and prosecution of domestic and international terrorists; the identification and protection of national information infrastructure; and the training of foreign and U.S. State and local law enforcement personnel in counterterrorism investigations and prosecutions. The Division also maintains a cadre of experienced prosecutors with expertise in terrorism cases who handle major terrorism cases together with Assistant United States Attorneys in the particular districts. (U)

Congress recently ratified twelve new extradition and mutual legal assistance treaties, including the first extradition treaty with an Arab country (Jordan) . Two additional criminal Division attorneys are needed to address the anticipated increase in requests for extradition and/or mutual legal assistance under these new agreements as well as to handle the explosive growth in requests from federal, state and local agencies under existing international agreements. (U)

The Division also is requesting funding to expand its presence overseas in areas where an on-the-ground presence will facilitate

more effective cooperation in sensitive extradition cases and cooperative law enforcement investigations. Three new attorney positions are sought for placement in the following strategic locations: Manila to support East Asia, Brasilia to support South America, and Athens to support the Middle East. In addition, with the assumption by the United States of the Presidency of the Eight in 1997, and as summit agendas focus increasingly on terrorism, the Criminal Division will be relied upon, and has requested one attorney and two support positions, to provide support and assistance to the myriad task forces originating front the Eight. (U)

Similarly, the Division is requesting new funds for the creation of an Analysis Unit in the Office of International Affairs. The Analysis Unit will collect, organize, and critically analyze sensitive international law enforcement and terrorism information, with the goal of developing specific enforcement strategies for particular countries, regions, or forms of terrorist and criminal activity. The Division's FY 1998 request seeks nine positions (five analysts and four support staff) for this new unit. (U)

Last year, Congress approved the creation of a new Computer, Crime Section within the Division. The Section is coordinating and/or participating in the implementation of key aspects of the Administration's effort to identify and protect the national information infrastructure. Additional resources also are needed to prosecute computer terrorists, strengthen network integrity, cooperate with foreign entities and governments in efforts' to harmonize computer crime laws, and eliminate procedural impediments in international computer terrorism investigations. The Division's FY 1998 budget request seeks funding for an additional four attorneys and one support staff for the Computer Crime Section. (U)

U.S. Attorneys. Additional resources for the U.S. Attorneys' Offices are needed to respond to the increasing number of cases involving radi ' cal militias and extremist groups, the use of explosives, and other domestic terrorism matters. Moreover, to address the need for greater coordination of counterterrorism efforts at the district level, the Department's FY 1998 budget request seeks $3,100,000 and 18 additional AUSAs for the appointment of a terrorism coordinator in U.S. Attorneys' Offices around the country. The coordinator would be responsible for assessing the terrorist threat in their district; working with federal, state and local officials to prepare and update emergency response plans for terrorist attacks; and effectively prosecuting terrorism cases in their district. (U)

Counterterrorism Fund. Recent experience has demonstrated the need for a mechanism to marshal massive and sustained counterterrorism resources in response to specific terrorist incidents or threats, and much of the U.S. strategy focuses on the continuing development of such capabilities it the tactical and operational level. The creation of the Counterterrorism Fund in the 1995 supplement appropriation provided an effective resource response mechanism for the Department of Justice, while ensuring adequate accountability and oversight of counter-terrorism spending. The Administration is requesting $29,450,000 for the Counterterrorism Fund in FY 1998, the same as the FY 1997 appropriations level. (U)

Other DOJ Programs. Other DOJ components have important responsibilities under PDD–39 and the U.S. terrorism strategy, including the Office of intelligence Policy and Review (assisting in the investigation of terrorism cases under the Foreign Intelligence Surveillance Act) ; Executive Office for Immigration Review (expeditiously expelling suspected terrorists who are in the United States unlawfully) ; and office of Justice Programs (providing funds to state and local law enforcement agencies to bolster their preparedness in the event of a terrorist attack, particularly involving chemical or biological weapons). (U)

Additional DOJ components with responsibilities under the strategy are the Justice Management Division (security and emergency planning staff); Immigration and Naturalization Service (arrest and exclusion and/or incarceration of foreign alien terrorists); U.S. National Central Bureau-Interpol; Drug Enforcement Administration (protection of DEA facilities and personnel in the United States and abroad); and the U.S. Marshals Service (security at high-risk facilities and proceedings). Each of these components received substantial funding increases in FYs 1996 or 1997, and the Department is seeking an increase in appropriations to provide full-year funding for each of these components. (U)

B. DEPARTMENT OF STATE

PDD–39 continued the designation of the State Department as the lead agency for international terrorism outside U.S. territory and within the jurisdiction of another nation. State also is responsible for counterterrorism training programs for foreign security personnel; operating the international terrorism rewards program; and ensuring that visas to enter the United States are not issued to persons involved in terrorist activities. In addition, the Department bears the responsibility for protecting diplomatic facilities and U.S. government personnel against terrorist attack. (U)

The State Department's expenditures for countering terrorism include both identifiable budget items such as those described below, and difficult-to-quantify efforts by various elements of the Department and overseas missions on diplomatic activities related to countering terrorism, or dealing with a specific terrorist incident. For FY 1998, the State Department's request for specific components and programs is $325 million, an increase of about $11 million above the FY 1997 estimates. (U)

Policy-level guidance and coordination for international terrorism is the responsibility of the Department's Coordinator for Counterterrorism. Approximately $2,250,000 is required in FY 1998 for salaries and expenses, equipment, and deployment and exercises. Further, the State Department is requesting $19,000,000 for the Antiterrorism Assistance Training (ATA) program, $1,800,000 for the Department's contribution of the interagency counterterrorism research and development program, and $1,500,000 for the rewards program. (U)

The Department requires $600,000 in FY 1998 funds to support the TIPOFF initiative, which serves as the interface between the highly classified intelligence products of U.S. agencies and U.S. personnel and consular officials, who must have access to such in-

formation in adjudicating visa applications and requests to enter the United States. (U)

The Department's Bureau of Diplomatic Security (DS) provides the security platform for the protection of U.S. government personnel, national security information, and diplomatic facilities under the authority of the Chiefs of Mission overseas, as well as for the protection of State Department personnel and facilities in the United States. The Department is requesting $285,200,000 in FY 1998 for diplomatic security and law enforcement operations, including DS operations, along with $7,900,000 to reimburse state and local jurisdictions for "extraordinary" protective services associated with the activities of foreign missions and officials. The Security and Maintenance of United States Missions account supports overseas buildings which must be built and maintained to withstand terrorist attacks. In addition, for FY 1998, $5,000,000 is requested specifically for physical security upgrades for buildings. (U)

The Fiscal Year 1997 Counterterrorism Budget Amendment, provided an additional $38 million in no-year funding to help combat the threat of terrorism worldwide, especially in the Middle East, and to make an initial down payment on the security infrastructure gap that has to addressed over the next several years. The operating portion of that amendment, which is essential for continuing the security improvements now underway, has been included in the FY 98 request. (U)

C. DEPARTMENT OF DEFENSE

The Department of Defense spends approximately $3.5 to 4.0 billion each year to combat overseas and domestic terrorism. DOD's combatting terrorism program consists of all actions taken to oppose terrorism including defensive measures used to reduce vulnerability to terrorist acts and offensive measures taken to prevent, deter, and respond to terrorism. The program includes resources (personnel and dollars) for physical security; security and investigative matters, counterintelligence; and counterterrorism. The effort excludes costs associated with counterproliferation, information assurance and intelligence activities since these activities do not directly focus upon combatting terrorism. (U)

In addition, DOD received $100 million in FY 1997 for defense against weapons of mass destruction. The FY 1998/FY 1999 President's Budget submission includes $49.5 million in FY 1998 and $52.1 million in FY 1999 to continue to provide emergency response preparedness, first responder training, and assistance to metropolitan area agencies, and to conduct exercises and preparedness tests in coordination with federal, state, and local agencies. It is DOD's intention to transition the first responder training and expert assistance programs to other agencies after FY 1999 as allowed for in section 1412 of the National Defense Authorization Act (NDAA) for FY 1997. Similarly, DOD intends to fund exercises and preparedness tests only through FY 2001 in accordance with section 1415 of the NDAA. (U)

Approximately $350 million of the Administration's $1.1 billion supplemental to the FY 1997 budget was earmarked for DOD, including measures to tighten security at U.S. facilities in the Persian Gulf; general overseas facilities and force protection upgrades;

and training, awareness, and other programs designed to combat terrorism. (U)

D. INTELLIGENCE AGENCIES

Although the preparation of this Report was coordinated through appropriate channels within the U.S. intelligence community,. the Report does not address the counterterrorism resource requirements of the Central Intelligence Agency or other components of the National Foreign Intelligence Program. (U)

Pursuant to Executive Order 12333, the Director of Central Intelligence is responsible for developing an annual budget specifically for the NFIP components, which is reviewed by the Executive Branch and Congress outside the normal budget process. A substantial portion of the counterterrorism assets of U.S. intelligence agencies fall within the NFIP. Persons interested in reviewing the terrorism resource requirements in the NFIP are referred to the classified NFIP budget and analysis prepared by the staff elements within the DCI. (U)

e. PLO Commitments Compliance Act—Report to Congress, November 20, 1997

Report to Congress pursuant to Title VIII of Public Law 101–246 [Foreign Relations Authorization Act for Fiscal Year 1990–91], as amended

This document is submitted in accordance with Title VIII of Public Law 101–246 (the PLO Commitments Compliance Act of 1989—PLOCCA), as amended. This report covers the period from the date of submission of the last combined PLOCCA/Middle East Peace Facilitation Act (MEPFA) report on January 22, 1997 to November 20, 1997.

This report describes actions and statements of the Palestine Liberation Organization (PLO) and, as relevant, the performance of the Palestinian Authority (PA) with respect to commitments set forth in Chairman Arafat's September 9, 1993 letters to Israeli Prime Minister Rabin and Norwegian Foreign Minister Holst and those in, and resulting from, the good faith implementation of the Declaration of Principles (DOP) and subsequent agreements. Under the commitments in these letters and accords, the PLO, *inter alia*, (1) recognizes Israel's right to exist in peace and security; (2) accepts UN Security Council Resolutions 242 and 338; (3) commits itself to the Middle East peace process and to a peaceful resolution of its conflict with Israel; (4) undertakes to submit to the Palestine National Council (PNC) changes to the PLO Covenant necessary to eliminate articles that deny Israel's right to exist; (5) renounces the use of terrorism and other acts of violence, states that it will call on Palestinians to refrain from violence, and assumes responsibility over all PLO elements and personnel to assure their compliance, prevent violations and discipline violators; and (6) agrees to strengthen cooperation with Israel on a wide range of security issues. Even though a MEPFA report is not required at this time, because of Congressional interest this report also addresses MEPFA topics.

INCIDENTS OF VIOLENCE/TERRORISM

The month following the signing on January 15, 1997 of the Hebron redeployment agreement was relatively calm and free of violence. In accordance with the terms of that agreement, Israel-Palestinian joint security patrols—suspended since the September 1996 violence—resumed operation. Tensions increased significantly, however, following announcement by Israel in late February that construction was to begin on the Har Homa/Jebel Abu Ghunaym housing project in Jerusalem. Palestinian demonstrators in the West Bank and Gaza routinely clashed with settlers and Israeli security forces. While there were reports that the PA organized large-scale demonstrations in the major cities under its control, we have

no evidence that the PA or Chairman Arafat at any time directed participants to use violence.

As Israel-Palestinian confrontations grew in scope and intensity throughout March (Har Homa construction began March 18), PA security and police forces were ordered to refrain from using arms or resorting to violence against Israeli forces, whatever the circumstances. As a result of the violent clashes between Palestinian and Israeli security forces near Hebron in September 1996, the PA confiscated weapons from Palestinian police in the West Bank. During the demonstrations this spring, the police in the West Bank were not issued arms in order to avoid an escalation of the conflict as had occurred in September 1996. Muhammad Dahlan, head of the Palestinian Preventive Security Organization in Gaza, stated "I am certainly concerned about an outbreak of violence. We do not want an escalation which would only serve HAMAS and the Popular Front. However, we will not be able to prevent the protest activities. In any case, even if there are confrontations with Israel, we will not reach a situation in which firearms will be used, because this would only lead to casualties and exacerbate our relations. We will not permit anybody to use firearms or carry out terrorist attacks."

Confrontations diminished following the March 21 "Cafe Apropos" bombing in Tel Aviv (discussed below). However, a new and more violent series of demonstrations—primarily occurring on the separation line between Palestinian and Israeli-controlled areas in the city of Hebron—followed the mid-June Congressional Concurrent Resolution expressing the sense of Congress regarding Jerusalem as the capital of Israel. Palestinian security forces were initially slow to respond to the increasing intensity of the clashes, which included incendiary and explosive devices thrown at Israeli forces.

Israel claimed that Palestinian police were deliberately not acting as required by the Hebron accord to impose calm on the demonstrators and prevent confrontation. By mid-July, however, following the serious wounding of an Israeli soldier, the Palestinian police took up positions along the confrontation line and were able to reinstate calm in the city of Hebron and elsewhere. Senior IDF commanders and Israeli Defense Minister Mordechai praised the Palestinian security officers for their cooperation in bringing the situation under control.

We have no information that any PLO element under Arafat's control was involved in terrorism during the period covered by this report. Nor do we have any information that the PLO has provided financial or material assistance or training to any group to carry out actions inconsistent with the Declaration of Principles. PLO rejectionist groups such as the Popular Front for the Liberation of Palestine (IPFLP) and the Democratic Front for the Liberation of Palestine (DFLP) do not participate in PLO decision-making and are beyond Arafat's political and physical control. These groups actively seek to undermine the Palestinian Authority and to disrupt the peace process. Statements made by leaders of these factions do not reflect official PLO policy.

In March, the Government of Israel stated its belief that Arafat had given a "green light" to terror by failing to crack down on ter-

rorist groups and signaling to these groups that the PA would not act against them. We do not have any information to suggest that a "green light" was given, but it is clear that a sufficiently "red light" was not given either. We have made clear to the PA that anything less than a serious, sustained and concrete effort to uproot the terrorist infrastructure is unacceptable.

In addition to the ongoing confrontations between Palestinians and Israeli security forces, the following is a list of incidents of violence and terrorism in relevant areas during the period from January 22 through November 20, 1997:

6 March.

A settler reported that Palestinians tried to murder him and that the assailants escaped in a car in the direction of Hebron. The man sustained light injuries. The car was found abandoned near the entrance to Hebron.

In Jerusalem a 50 year old man was stabbed near the King David Hotel by a young Arab man. A suspect was later detained by Israeli authorities and the attack was deemed to be criminal in nature.

21

March A bomber killed himself and 3 others at the Cafe Apropos in Tel Aviv. A HAMAS caller to the Israeli Channel 1 Television news room said his "organization carried out the operation but was not responsible for the action. The responsible party is the Government of Israel which attacked Jerusalem."

23 March

A fire bomb was thrown at an IDF post in Hebron; no casualties were reported.

1 April

A bomb detonated at approximately 7:00 a.m. local time near Netzarim in Gaza, killing only the bomber.

Around 7:30 a.m. local time a second bomb exploded on Gaza's main north-south road (Rte 4) near the Israeli settlement of Kfar Darom. The suicide bomber involved reportedly wore a Palestinian police uniform. The blast occurred close to a local (Palestinian) taxi. Five Palestinians were injured.

27 April

Two Israeli women were stabbed to death in Wadi Kelt. A Palestinian Bedouin was eventually arrested and confessed to the attack. The Bedouin was not affiliated with any terrorist organization and the attack was treated as a crime by Israeli authorities.

29 May

Three terrorists, reportedly armed with an automatic weapon and knives, attacked Jewish merchants visiting a Gazan greenhouse. The Palestinian owner of the greenhouse hid the Jewish woman in his house and defended her husband with his own body. The Gazan was wounded in the attack, the couple was unharmed.

13 June

An Israeli woman was shot and wounded by terrorists as she drove out of Har Adar, northwest of Jerusalem. Six Palestinians from a nearby village were arrested by Israeli Defense Forces.

20 June

An Israeli thief discovered a bomb in a bag he had stolen from a beach in Tel Aviv. Israeli police were able to disarm the bomb.

9 July

Two border policemen were lightly injured when a small explosive device detonated close to their jeep as they escorted a bus of students from the 'Od Yosef Hay Yeshiva at Joseph's Tomb.

10 July

A Rabbi's car was shot at near Elon Moreh; no one was hurt.

15 July

Israeli security forces arrested three Palestinian policemen who allegedly planned to attack a guard at the Har Bracha settlement near Nablus. According to Israeli police, the three were also responsible for the shooting attack on the Rabbi's car near Elon Moreh on July 10.

Israeli officials later stated their belief that the Palestinian policemen were operating on orders from the Palestinian Authority's Chief of Civil Police, Ghazi Al-Jabali. The Palestinian Authority is conducting its own, internal investigation of these allegations.

20 July

Palestinian security forces uncovered a bomb making factory in Bayt Sahur near Bethlehem. The discovery came as part of the investigation into the death of a HAMAS activist who blew himself up while making a bomb on July 14.

30 July

Two suicide bombs detonated in the Mahane Yehuda Jerusalem market place. Sixteen people, including the 2 bombers, were killed in the blast and over 160 were injured. HAMAS distributed leaflets claiming responsibility for the attack and vowed that the attacks would continue if Palestinian prisoners were not released.

4 September

Suicide bombers detonated 3 explosive charges on Ben Yehuda street in downtown Jerusalem, killing 8 people and wounding over 100.

Israeli security forces detained 69 Palestinians throughout the territories in the wake of the Jerusalem bombing on suspicion of aiding terrorist infrastructures.

12 September

Israel issued an arrest warrant and extradition request to the Palestinian Authority for Ghazi Al-Jibali.

13 September

A young Arab woman tried to stab a border policeman near the gate of an IDF base on the Jerusalem-Ramallah highway. The policeman was not hurt and the woman was detained.

29 September

A Palestinian suspect was detained by Israel for abetting the kidnappers of soldier Nachshon Wachsman, who was murdered three years ago.

30 September

An Israeli court convicted Musa Mustafa, head of Palestinian security in Jericho, of kidnapping and aggravated extortion. The conviction stemmed from a case 15 months prior, in which a resident of East Jerusalem was kidnapped, tortured, and detained for over five months on suspicion of having committed murder while under the employment of Israeli intelligence.

6 November

Shots were fired at a school bus near Elon Moreh. No one was injured.

19 November

A yeshiva student was killed and a second wounded in a suspected terrorist attack inside the old city of Jerusalem. The students were ambushed while returning to their residence, a settler-owned home in the Muslim Quarter.

PLO Renunciation of Terrorism

The Palestinian Authority in general, and Chairman Arafat in particular, consistently condemned acts of violence and terrorism during this period. Following the March 21 Cafe Apropos bombing Marwan Kanafani, adviser to and spokesman for Chairman Arafat, spoke on Voice of Palestine radio saying "the bombing incident today was condemned by the [Palestinian] Authority." Chairman Arafat spoke to Israeli President Weizman and reiterated his condemnation of the bombing, stating that "the Palestinian National Authority is against any violence." Palestinian Council member Ziad Abu Ziad told Israeli TV "the bombing truly pains me. I condemn it sharply. I think condemnations are not enough to express the anger and pain we feel as we see the region reverting to the era of bombings, dead, and wounded. I sincerely hope the situation will not become like it was before, that this was an isolated event."

Likewise, Orient House head Faisel Husseini stated that the bombing "is a painful thing. We hope that it is an isolated event, that it is even not a political one; that it is not a terrorist attack. But if it is, we condemn it. We are against hurting, injuring innocent people. I am not for violence and my heart is with those who have been injured."

In the aftermath of the two apparently botched suicide bombings on April 1 in the Gaza strip that killed only the bombers themselves and wounded five Palestinians, the Palestinian Authority mounted a campaign against Islamic militants particularly members of the Palestinian Islamic Jihad (PIJ) in the Gaza strip.

As he had done following the March 21 bombing, Chairman Arafat strongly condemned the July 30 double suicide bombing in Jerusalem saying, "today's explosions ... aim to undermine the peace process." Mahmud Abbas ("Abu Mazen") also condemned the attack saying it was "tantamount to a crime against the peace process." In an interview with London's MBC television Faisel Husseini condemned the attack saying "First of all we expressed,

and have always expressed, our rejection and denunciation of any incident that involves the killing of civilians, Palestinians or Israelis ... Moreover, there can be no security for us if there is no security for the Israelis. So, we feel that we have to provide security, not only for ourselves, but also for the Israelis."

SECURITY MATTERS

The Palestinian Authority has constituted law enforcement institutions for carrying out its security responsibilities in areas subject to its jurisdiction. The Palestinian Police Force (PPF) was established in May 1994 and consists of the Palestinian National Security Force (PNSF); the Palestinian civil police; the Preventive Security Organization (PSO); Palestinian intelligence, or the Mukhabarat; the civil defense force; and the Palestinian Presidential Security Force. Palestinian police are responsible for security and law enforcement for Palestinians and other non-Israelis in Gaza and five West Bank towns and surrounding villages. The establishment of these security forces is pursuant to the Interim Agreement.

The PA inherited a court system based on structures and legal codes of differing origins. The Gaza legal code derives from the British Mandate, Egyptian, and some locally generated law. Pre-1967 Jordanian law applies in those areas in the West Bank under PA control. However, the body of law in both Gaza and the West Bank was substantially modified by Israeli military orders. The PA is continuing efforts to unify the Gaza and West Bank legal codes.

In February 1995 the PA established a security court in Gaza to try cases involving terrorism. The PA has also established military courts to handle cases of abuse of authority. In each case, three judges, drawn from senior ranks of the security forces, preside over the civilian law court. There is no right of appeal, but verdicts may be either ratified or repealed by the head of the PA. A similar system operates in the West Bank under the same guidelines as the Gaza court. On June 2, five PA intelligence officers (Mukhabarat) were brought before the military courts on charges of having caused the death of a suspect in custody. The courts convicted the officers who received sentences from 2 months to 5 years in prison.

In a highly publicized case, the eight Palestinian policemen allegedly responsible for the death of Nasir Radwan, a Gazan who died June 30, 1997, as a result of violent beating in the hands of Palestinian security service members, were immediately brought before the military courts. The officers were charged with unlawful detention and perpetrating gross abuse which led to death. In an unprecedented move Chairman Arafat ordered that this trial be open to the public. Six of the eight officers were found guilty with three receiving death sentences and the other three receiving sentences from six months to five years.

Human rights organizations have reported that the PA continues to engage in arbitrary arrests, denial of due process rights and abusive treatment. The U.S. government has urged the PA to respect the rule of law, even as it pursues those who defy it. In an effort to address these issues, the PA has established a team of legal advisors to provide guidance to interrogators who are stationed at PA security facilities.

Security coordination and cooperation diminished in the period between March and September, largely as a result of tension between Israel and the Palestinians. Both sides had publicly announced a severing of the security dialogue: the Israelis in reaction to Palestinian accusations of Israeli involvement in the April 1 Gaza bombings, and the Palestinians in reaction to the late February Israeli decision to build at Har Homa/Jebel Abu Ghunaym.

Despite the public posturing regarding security cooperation, and an absence of high level, public cooperation, some security cooperation continued at lower levels prior to October. For example, Joint Patrols were halted in March after Har Homa construction began and the Cafe Apropos bombing, but were gradually resumed as the situation normalized. They were halted again by the Government of Israel after the July 30 Mahane Yehuda bombing. In general Joint Patrols have been linked to closure by the Israeli government. At times when closure is imposed the Joint Patrols are also stopped. As of this report, Joint Patrols had resumed in all areas of the West Bank and Gaza Strip. Likewise, both bilateral and trilateral meetings to coordinate and facilitate security cooperation (with U.S. participation) took place over the period of this report, totaling over 20 meetings held between April and November 20, 1997.

During her September 9-15 trip to the region, Secretary Albright emphasized the paramount importance of the Palestinian Authority's resuming security cooperation with Israel and undertaking unilateral security measures as a sine qua non for moving the peace process forward. In conjunction with the Secretary's visit, the Palestinian Authority gave assurances that it would adopt a systematic approach to uprooting the HAMAS terrorist infrastructure.

Partially as a result of this trip and a follow-up meeting in New York between the Secretary, Israeli Foreign Minister David Levy and chief Palestinian negotiator Abu Mazen (Mahmud Abbas), Israel and the Palestinians resumed direct bilateral negotiations on October 6 with SMEC Ross present. Since then, the quality and frequency of security cooperation has improved significantly. Following meetings between Israeli and Palestinian security chiefs in mid-October, an Israeli government source was quoted as saying that security cooperation had nearly reached the level. extant at the beginning of the year. SMEC Ross attended a trilateral security meeting on October 21 with PA Chairman Arafat, Israeli Defense Minister Mordechai, and their respective security chiefs to review security cooperation between the two sides. Most recently, the Joint Security Committee met on November 19 chaired by senior Israeli and Palestinian military officials.

The following list highlights on-going security relations between the Israelis and the Palestinians as well as specific examples of Palestinian efforts to control violence and terrorist acts during this period:

26 Feb. An IDF undercover unit in the Palestinian town of Hizma near Jerusalem fired at residents, killing 1 and injuring 3 others. Principal Palestinian peace process negotiator Sa'eb Erekat said "We condemn this act and regard it as a planned terrorist action

against our people. We strongly condemn this act and demand from all the sponsors of the peace process to stand against the Israeli government and request it to adhere to the peace process." West Bank Preventive Security Organization (PSO) chief Jibril al Rajoub and his forces intervened rapidly to quiet demonstrations which followed the shootings.

17 March

A senior PSO official claimed that a planned terrorist attack in Jerusalem had been thwarted by Palestinian security forces. At the same time, he cautioned that a HAMAS squad was believed to be at large and planning an attack in Jerusalem. The Palestinian Authority reported that recent raids on HAMAS activists resulted in 60 arrests and the confiscation of 1500 kilos of explosive material and 14 pistols.

21 March

In the aftermath of the Cafe Apropos bombing in Tel Aviv, PSO chiefs Rajoub (West Bank) and Dahlan (Gaza) met immediately with the head of Israel's Shin Bet to coordinate actions. Rajoub also met with the Israeli Security Minister and the two established a hotline to improve cooperation between their offices. The PA immediately launched a wave of arrests, detaining over 30 HAMAS activists within the first two days. By the end of the week, Palestinian security forces reported the arrest of over 100 people. The raids and arrests resulted in the confiscation of 8 machine guns, 10 pistols, 3 remote control explosive devises, 20 kilos of inflammable liquid, 15 thousand rounds of ammunition, 25 hand grenades, 5 suitcase bombs, and 150 kilos of TNT, and arrested five trained suicide bombers.

30 March

Palestinian police effectively intervened to avoid violence during Palestinian Land day demonstrations in Nablus and Ramallah. Israeli Defense Minister Mordechai said "I have to say that in most places the Palestinian police made visible efforts to deal with the incident. I think the majority of the Palestinian forces, policemen, were working with us against the violence in the area."

8 April

An Israeli settler shot and killed a Palestinian in the Hizbi market area of Hebron and a female settler driving a car struck and injured a 16 year old Palestinian also in Hebron.

Palestinian authorities condemned the settlers' actions but acted to quell the street violence in Hebron. Senior IDF commanders praised the Palestinian police forces for controlling the situation.

9 April

Joint Israeli-Palestinian coordination led to the break-up of a previously-unknown terrorist cell in Surif. The arrest of one of the cell members produced information which led Israeli forces to the body of long-missing, slain Israeli soldier Sharon Edri. In addition to Edri's kidnapping and murder, the cell was also implicated in the Cafe Apropos bombing.

7 May

Chairman Arafat announced that Palestinian security officials would participate in a trilateral meeting that evening with the aim of resuming security coordination with Israel.

14 May

The Palestinian Authority uncovered and destroyed a tunnel at the Gaza-Israel border adjacent to Burayj camp. The tunnel was 35 meters long, heading in the direction of Israeli territory.

15 May

The PSO conducted a campaign of arrests against the PIJ, detaining some 200 activists, including a group of doctors who reportedly held positions in the top echelon of the PIJ's military wing and were responsible for the planning and execution of attacks in Israel. Israeli security sources praised the PSO actions as a step aimed at crippling the PIJ.

7 June

In response to an Israeli request that the Palestinian police help search for a missing family feared to have been victims of terrorist activities, Palestinian security forces immediately responded with a widespread search resulting in location of the family. Joint Israeli-Palestinian investigation showed the family had died in a car accident and no foul play was involved.

21 June

Palestinian police intervened to quell large-scale demonstrations in Nablus. Palestinian protesters were blocked from going to Joseph's tomb—a flash point for earlier violent confrontations.

2 July

Palestinian Public Security Commander Brig. Gen. al-Hajj Isma'il Jabber met with Major General Gabi Ofir, Commander of IDF troops in the West Bank, to discuss the resumption of security cooperation. Jibril al-Rajoub traveled to Hebron, the site of ongoing clashes, to restore calm and meet with the commander of IDF troops in the area.

12 July

Palestinian and Israeli security forces worked jointly to search for a missing Israeli businessman. He was found unharmed within 24 hours.

14 July

Palestinian security forces took up positions in Hebron to prevent Palestinians from confronting IDF troops.

18 July

Following the arrest of three Palestinian policemen by Israeli security forces, Chairman Arafat appointed an inquiry committee to investigate allegations that the police were involved in planning terrorist attacks.

20 July

Palestinian police, under direct orders from Chairman Arafat, arrested Nablus police commander Colonel Jihad Masimi, accused by Israel of being connected to the Palestinian policemen who were allegedly planning to carry out terrorist attacks against Israel.

Palestinian Security forces uncovered a bomb making factory in Bayt Sahur near Bethlehem. The discovery came as part of the investigation into the death of a HAMAS activist who blew himself up while making a bomb on July 14.

22 July

Prime Minister Netanyahu's special envoy, Yitzhaq Molkho, delivered a message from the Prime Minister to Chairman Arafat expressing the Prime Minister's satisfaction with the PA's cooperation with Israel on the issue of the Palestinian policemen.

25 July

Palestinian security officials announced they had apprehended a wanted PIJ terrorist.

28 July

Prime Minister Netanyahu, in an Israeli television interview "the Palestinians have taken measures to restrain (Hamas and the PIJ). I set the goal of lowering the level of terrorism and stopping the horror that was happening here. This was hard and required a concentrated effort, but we did it."

30 July

In the wake of the Mahane Yehuda suicide bombing, three high-level security meetings took place. At this time, the Israelis shared the preliminary information they had gained from the bomb site, including photographs of the suicide bombers. Palestinian authorities provided Israel with samples of explosive material from the Bayt Sahui bomb factory for comparison.

31 July

Palestinian security forces arrested over 20 Hamas and Islamic Jihad members in the wake of the July 30 suicide bombings.

1 August

The PA detained two of the most senior HAMAS fugitives wanted by the Israelis, Muhammad Sanwar, a member of the military branch and Muhammad Dayf's long-time partner, and Abd-al-Fatah Sutari, another senior member of HAMAS.

8 August

Palestinian police uncovered a arms cache in Qalqilyah. Police confiscated the weapons and arrested a person connected to the cache.

11 August

Palestinian police in Hebron stopped protesters from heading to an Israeli checkpoint, avoiding violent clashes between the demonstrators and Israeli security forces.

16 August

Israeli security forces asked the PA for help in locating an Israeli taxi driver missing since August 14.

Palestinian police located his body in a well near Jericho and found his taxi near the Aqabat Jabr refugee camp. Three suspects were arrested by the Palestinian police and immediately brought to trial and convicted of the driver's murder. Two of the men were given life sentences and the third 15 years in prison. Israeli au-

thorities praised the action of the PA and Prime Minister Netanyahu's advisor Yitzhaq Molkho met with Arafat to thank him for his cooperation.

27 August

Israeli soldiers and Palestinian police held a first-ever joint exercise, simulating a car-bomb attack in the Gaza Strip.

9 September

September Palestinian security forces arrested more than 30 Hamas activists throughout PA-controlled territory in response to the September 4 bombing.

12 September

Israeli and Palestinian security personnel worked together to search for an Israeli man missing for two days. He was found in an burning abandoned building, tied up and in a state of shock. It was later learned that the kidnapping was a hoax orchestrated by the victim himself.

16 September

September Palestinian security services shut down the Gaza Headquarters of the Islamic Bloc Youth Union, a student organization with ties to Hamas.

23 September

Israeli security services announced that they had identified four of the five suicide bombers involved in the Mahane Yehuda and Ben Yehuda incidents.

According to the Government of Israel, all four were residents of Azira Shamaliya, a village near Nablus, and had been arrested by the Palestinian Authority in the spring of 1996. In September 1996 the four men escaped and had been fugitives ever since. According to the Government of Israel, the four were included in a list of 88 individuals the Government of Israel had requested the Palestinian Authority to arrest.

According to information from the PA, these individuals were sought by the PA but were fugitives from justice. The PA also noted that the town of Azira Shamaliya is in an area in which Israel retains responsibility for internal security; the Palestinian authority has responsibility only for public order for Palestinians.

Israeli and Palestinian security officials met in Ramallah to discuss the results of Israel's investigation.

According to press reports, this was the first time the two sides had met since the September 4 bombing.

5 September

Thirteen people were detained by Palestinian security forces in Qaiqilya as part of the crackdown against Hamas.

The Palestinian Authority ordered the closing of sixteen Hamas-affiliated associations and institutions in response to the news that several of those responsible from the recent bombings in Jerusalem had come from an area jointly administered by Israel and the PA.

13 October

Shin Bet Chief Ayalon conducted a series of meetings over the previous weekend with his Palestinian counterparts Amin al-Hindi,

Mohammed Dahlan and Jibril al-Rajoub aimed at renewing security cooperation. Commenting on these meetings, an unnamed Israeli government official was quoted on Israel Channel One as saying that "we are on our way to being where we were early this year when the level of intelligence sharing was ongoing, thorough and serious." He added that the sides had "reached understandings" on holding regular meetings.

21 October

PA Chairman Yassir Arafat, Israeli Defense Minister Yitzhak Mordechai, and U.S. Special Middle East Coordinator Dennis Ross held a trilateral security meeting at Erez crossing. The meeting was attended by Israeli Defense Forces Chief of Staff Shahak, Shin Bet Chief Ayalon, the Chief of Israeli Military Intelligence, and Palestinian security chiefs Jibril Rajoub, Amin al-Hindi and Mohammed Dahlan. The goal of the meeting was to rebuild trust and mutual confidence between the two security apparatuses. Amidst a positive atmosphere, Arafat pledged to step up counter-terrorism efforts.

29 October

Israeli Shin Bet established the identity of the third suicide bomber who carried out the Ben-Yehuda street attack.

13 November

Israeli security forces seized two Hamas activists from members of the Palestinian Preventative Security Organization (PSO) who were transporting them from one prison to another in the West Bank. The action took place near the West Bank village of Hawara within "Zone B." The PSO escorts were detained briefly as well. The Government of Israel stated that the two detainees, from the West Bank village of Surif, ran a Hamas terrorist cell responsible for the deaths of eleven Israelis.

17 November

Major General Abdel Razek al-Majaydah, Palestinian director of public security for Gaza, denied Hamas' public accusation that the PA had voluntarily handed over the two Hamas activists seized by Israel on November 13. Describing the Israeli action as an "abduction," al-Majaydah demanded that Israel return the two suspects.

19 November

The Joint Security Committee met to discuss issues of security cooperation and coordination. The Israeli side was headed by Major General Shlomo Yanai and included Brig. General Shlomo Brom and Colonel Michael Herzog. The Palestinian side was represented by General Abdul Rizaq al-Yahya.

PLO COVENANT

The April 24, 1996 action by the Palestinian National Council (PNC) honored the important commitment to Israel to make the necessary changes to the PLO covenant. At that time, the Israeli Government accepted the PNC vote as the fulfillment of the PLO's commitment to abandon violence and all other actions that endanger peace and stability.

The PNC action is best understood through a comparison of the actual text of the PLO commitment—as contained in the September 9, 1993 and May 4, 1994 letters from Chairman Arafat to Prime Minister Rabin and Article XXXI(9) of the September 1995 Interim Agreement between Israel and the PLO—with the official English language text of the PNC resolution adopted on April 24.

Arafat's September 9, 1993 letter to Rabin states:

> In view of the promise of a new era and the signing of the Declaration of Principles and based on Palestinian acceptance of Security Council Resolutions 242 and 338, the PLO affirms that those articles of the Palestinian Covenant which deny Israel's right to exist, and the provisions of the Covenant which are inconsistent with the commitments of this letter are now inoperative and no longer valid. Consequently, the PLO undertakes to submit to the Palestinian National Council for formal approval the necessary changes in regard to the Palestinian Covenant.

The commitments in the September 9, 1993 letter include: recognition of the right of the State of Israel to exist in peace and security, PLO acceptance of Security Council resolutions 242 and 338, PLO commitment to the Middle East peace process and the peaceful resolution of the conflict through negotiations, PLO renunciation of the use of terrorism and its assumption of responsibility over all PLO elements to assure their compliance.

In a May 4, 1994 letter to Rabin, Arafat further stated:

> The PLO undertakes to submit to the next meeting of the Palestinian National Council for formal approval the necessary changes in regard to the Palestinian Covenant, as undertaken in the letter dated September 9, 1993 signed by the Chairman of the PLO and addressed to the Prime Minister of Israel.

In the September 1995 Interim Agreement, Article XXXI(9), the PLO undertook that "within two months of the date of the inauguration of the Council, the Palestinian National Council will convene and formally approve the necessary changes in regard to the Palestinian Covenant, as undertaken in the letters signed by the Chairman of the PLO and addressed to the Prime Minister of Israel, dated September 9, 1993 and May 4, 1994."

The key sections of the April 24, 1996 PNC resolution to amend the Covenant read as follows:

> 1. The Palestinian National Charter is hereby amended by canceling the articles that are contrary to the letters exchanged between the PLO and the Government of Israel 9-10 September 1993.
>
> 2. Assigns its legal committee with the task of redrafting the Palestinian National Charter in order to present it to the first session of the Palestinian central council.

This resolution was approved overwhelmingly by a vote of 504-54 (with 14 abstentions), easily sufficient for amending the Covenant. The PNC delegated to its legal committee the responsibility of writing a new Covenant but did not fix a timetable for this undertaking.

PLO Chairman Yasser Arafat conveyed this decision in a May 4, 1996 letter to Prime Minister Peres, which stated:

> As part of our commitment to the peace process, and in adhering to the mutual recognition between the Palestinian Liberation Organization and the Government of Israel, the PNC was held in Gaza City between 22-25 of April 1996, and in an extraordinary session decided that the Palestine National Charter is hereby amended by canceling the provisions that are contrary to the letters exchanged between the PLO and the Government of Israel on 9/10 September 1993.

The White House issued the following statement after the PNC decision:

> President Clinton warmly welcomes the Palestine National Council's vote to revoke the sections of the Palestinian Covenant that called for the destruction of the State of Israel. By an overwhelming majority, the Palestine National Council has honored an important commitment made in the Interim Agreement signed here in September 1995. It is a major step forward on the road to a lasting peace between Israel and the Palestinians. The President applauds this action as a decisive statement, at this difficult moment, that those who champion peace will not be deterred by the murderous acts of those desperate to prevent the people of the Middle East from building a better future.

During the Hebron negotiations (October 1996–January 1997), Chairman Arafat undertook to complete the process of revising the Palestinian National Charter.

On March 5, 1997, Chairman Arafat told assembled Permanent Representatives of the UN Security Council that 29 paragraphs in the Covenant were annulled, all of them concerning the elimination of the state of Israel. He also noted that a Palestinian legal committee was working on a revised charter.

Arab League Boycott of Israel

The PLO reiterated its stand against the Arab boycott of Israel when it signed the September 28, 1995 Joint Declaration of the Washington Summit. That declaration called, *inter alia,* for an end to the boycott as soon as possible. Additionally, senior Palestinian Authority economic and trade official Ahmed Quray (now Speaker of the Palestinian Legislative Council) made the following commitment in an October 17, 1996 letter to then U.S. Trade Representative Mickey Kantor: "The PLO and the Palestinian Authority and its successors will support all efforts to end the boycott of Israel and will not enforce any elements of the boycott within the West Bank and Gaza Strip."

Three weeks after the July 30 Israeli closure of the West Bank and Gaza, the Palestinian Authority (PA) began urging Palestinians to stop purchasing certain Israeli products and items imported by Israelis that are considered luxury items or which can be produced within the West Bank and Gaza. Enforcement appears to be

lax, but there have been reports of zealous officials barring the entry of certain goods, especially in Gaza. PA officials have generally avoided referring to this measure as a "boycott." While it is impossible at this time to gauge the effectiveness of the PA's urging, there have been extensive reports of exceptions granted to Palestinian businessmen who have approached the PA for clearance to import products covered by the action. The extensive easing of closure measures brought no change in the PA's call for restricted imports. Although some officials have referred to the need for the GOI to lift its 'blockade" against the West Bank and Gaza in order for the PA's action to be rescinded, the exact measures that must be taken for this to occur have not been made clear.

STATUS OF THE PLO OFFICE

The State Department's Office of Foreign Missions designated the PLO office in Washington a "foreign mission" under the Foreign Missions Act on June 21, 1994, to provide a statutory basis for regulating the office. The designation was published in the Federal Register on July 20, 1994. The PLO office and personnel are not accorded diplomatic status, privileges or immunities. The office may not portray itself as a diplomatic mission or embassy, but may portray itself as representing the PLO. Office personnel support U.S. travel by members of the PLO and the Palestinian Authority and have testified before Congress and participated in discussions with U.S. government officials and in numerous meetings and media events. The office has approximately ten employees, all of whom are permanent resident aliens or U.S. citizens. The office is currently headed by Mr. Hassan Abdel Rahman.

On August 8, the PLO Office in Washington was informed by the Department of State that effective midnight, August 12, with the expiration of the Middle East Peace Facilitation Act and accompanying Presidential waiver of statutory restrictions on the PLO, the PLO Office was required to suspend its activities.

PALESTINIAN ASSISTANCE

The U.S. is working with the international donor community to meet the legitimate development needs of the Palestinians as they seek to build self-governing institutions and implement their agreements with Israel. We also have worked to ensure that all U.S. assistance is handled in a transparent and accountable manner. The largest single international assistance program has been the World Bank's Holst Fund, to which the U.S. has contributed $39.9 million and other donors $187.2 million (as of December 7, 1996). A total amount of $227.1 million for the Holst Fund has been disbursed. This fund sustains Palestinian Authority operations and is subject to rigorous World Bank auditing.

There have been no credible reports of irregularities in the use of the Holst Fund, nor is there any information to indicate that other U.S. assistance projects have been used for other than their intended purposes. The U.S. Agency for International Development continues to implement scrupulously its procedures for the monitoring and supervision of activities performed by USG-funded nongovernmental organizations and contractors.

The U.S. has been actively engaged, together with other donors, in supporting ongoing efforts to increase the accountability of the Palestinian Authority's financial operations. We have also taken a leadership role in ensuring that the fiscal control steps in the Tripartite Action Plan (TAP), a document signed by the Palestinian Authority, Israel and the donor community, are functioning. The PA reiterated its commitment to fulfill its TAP obligations regarding account consolidation at the December 10 meeting of the Ad Hoc Liaison Committee in Brussels. According to the IMF, higher than anticipated revenues and extraordinary expenditure control resulted in a slight budget surplus for the first quarter of 1997. The PA and the IMF are still projecting an overall budget deficit of $52 million for this year, significantly lower than the deficit of $95 million recorded in 1996. Major Western based accounting and consulting firms are involved in the monitoring and supervision of Palestinian financial activities on a regular basis.

OTHER ISSUES

Finally, the PLO Commitments Compliance Act calls for information on several other issues:

- The status of Muhammad Rashid and Abu Abbas were last discussed in the January 22, 1997 report. The status of Rashid and Abu Abbas has not changed since that time.
- We have raised with the PLO the issue of PLO compensation to American citizen victims of PLO terrorism. Lawyers representing the PLO, the family of Leon Klinghoffer (who was murdered in 1985 when terrorists seized the cruise ship Achille Lauro) and Crown Travel Service Inc. reached a settlement on compensation that was entered into the US district court in Manhattan on August 6, 1997. The State Department was not a participant in the litigation and has no information on the terms of the settlement.
- Issues relating to the Hawari group and others were last reported in the January 1994 report. Their status has remained unchanged since that time.
- The PLO has cooperated in the past with our requests for information available to them that could shed light on the status of U.S. nationals known to have been held by the PLO or factions thereof in the past. There have been no new developments.
- In the Interim Agreement, both Israel and the PLO agreed that, "Neither side shall initiate or take any step that will change the status of the West Bank and the Gaza Strip pending the outcome of the permanent status negotiations." The PLO has respected this commitment. Under Israeli-Palestinian agreements, the Palestinian Authority may only maintain offices in the areas under its jurisdiction, which do not include Jerusalem. Oft-repeated Palestinian rhetoric about the future "state of Palestine with its capital in Jerusalem," constitutes a statement of position only.
- Several Palestinian institutions were given a closure notice by Israeli authorities in August 1995, but were allowed to remain open after they signed a declaration that they were not con-

nected with or funded by the PA. Similarly, PLO Executive Committee member and Orient House head Faisal Husseini has consistently refused appointment as an official of the PA, nor did he seek election to the Palestinian legislative council. His most recent disavowal came on July 1.

- The Palestinian Authority Minister of Religious Affairs, Hassan Tahbub maintains offices in Ramallah and Gaza for the conduct of his official PA duties. He is also president of the Higher Islamic Council, which has been headquartered in Jerusalem's Old City since its establishment in 1967. He occupied this office prior to being named minister of religious affairs. Tahboub has publicly said that his Jerusalem office pre-dates the existence of the Palestinian Authority and has nothing to do with the PA.
- In response to Israeli concerns, the PA announced that three offices (the Vocational Training Center, the Mapping and Geography Department, and the Youth and Sports Department) were to be closed in August. Israeli officials welcomed this move.
- We have no evidence the PLO has signed any agreements not within the areas allowed in its agreements with Israel (economic agreements, agreements with donor countries for the purpose of implementing arrangements for the provision of assistance to the Council, agreements for the purpose of implementing the regional development plans, cultural, scientific, and educational agreements), nor have we seen any evidence that Palestinian offices abroad issue Palestinian passports or other Palestinian travel documents.
- We continue to monitor the size and composition of the Palestinian police. Israel alleges that the force totals more than the 30,000 allowed in the Interim Agreement. The PA acknowledges employing about 34,500, but contends that the excess is due to the employment of five to six thousand Palestinians as unarmed, non-uniformed clerical and support staff and informants. The PA indicates that it routinely notifies the GOI of all regular police hires, but not of clerical staff or informants. The PA, as part of the agreement on Hebron, reaffirmed its commitment on the size of the Palestinian police forces, in accordance with the Interim Agreement.
- Israel has alleged that the Palestinian Authority has not transferred suspected terrorists. The PA has deferred action on the transfer of some of those requested, citing Annex IV, article II, section 7(f)(2) of the Interim Agreement, covering delays in transfers to the requesting side for the duration of a suspect's detention or imprisonment. The PA notes that in other cases the Israeli government has not officially requested a transfer in accordance with the procedures outlined in the agreement. In still other cases, the PA indicates that the suspects are at large, their whereabouts unknown.

f. Report on Rewards for Information Relating to International Narcoterrorism July 12, 1994 [Pursuant to P.L. 84–885, sec. 36(h)]

United States Department of State
Washington, D.C. 20520
June 20, 1994

The Honorable Thomas S. Foley,
Speaker of the House of Representatives

Dear Mr. Speaker:

I am writing to advise the Congress that a reward has been paid pursuant to 22 U.S.C. § 2708. The enclosed documentation provides information required under paragraph (h) of that statute.

Sincerely,

Wendy R. Sherman
Assistant Secretary
Legislative Affairs

AMOUNT OF THE REWARD PAID

Special Agents of the Diplomatic Security Service met with Mr. Adnan Awad and provided him with a reward of $750,000.

TO WHOM THE REWARD WAS PAID

The reward recipient is Mr. Adnan Awad. Although normally we do not reveal the identity of a reward recipient, in this case the recipient has publicly revealed his participation in the Rewards Program. His role in the trial of terrorist Mohamed Rashed is also public knowledge.

ACTS WITH RESPECT TO WHICH THE REWARD WAS PAID

Over the span of more than a decade, Mr. Adnan Awad provided crucial information to the United States regarding the "15 May" organization. This terrorist organization was responsible for at least fifteen bombings during the early and mid-1980s, three of which involved aircraft. In one particular case, a top aide to the organization, Mohamed Rashed, placed a bomb on board a Pan American World Airways aircraft. The bomb exploded en route from Tokyo to Honolulu on August 11, 1982, killing a teenager.

Terrorist Mohamed Rashed was arrested in Greece in 1988. Rashed's trial for the Pan American aircraft bombing started in 1991 and was conducted within the Greek legal system. As a result of Mr. Awad's cooperation and testimony, provided at extreme personal risk, the "15 May" organization was dismantled; and Mohamed Rashed was convicted in 1992, receiving eighteen years in prison. Rashed appealed the verdict which was upheld on June

18, 1993, followed another trial by a higher court. Mr. Awad provided testimony in both of Rashed's trials in Greece and also testified before a U.S. Grand Jury.

SIGNIFICANCE OF THE INFORMATION

Mr. Adnan Awad's information was pivotal to the dismantling of the "15 May" terrorist organization and the conviction of terrorist Mohamed Rashed. Particularly significant were the sustained nature of Mr. Awad's contributions and the powerful signal his court testimony sent to terrorists everywhere about our commitment to defeat international terrorism.

g. Determination Placing Sudan on Terrorism List (Public Notice 1878), October 7, 1993

DEPARTMENT OF STATE
OFFICE OF THE SECRETARY
[PUBLIC NOTICE 1878]

DETERMINATION SUDAN

On August 12, 1993, Secretary of State Warren Christopher made the following determination:

"In accordance with section 6(j) of the Export Administration Act (50 U.S.C. App. 2405(j)), I hereby determine that Sudan is a country which has repeatedly provided support for acts of international terrorism. The list of 6(j) countries as of this time therefore includes Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria."

Warren Christopher,
Secretary of State.
[FR Doc. 93–24838 Filed 10-7-93; 8:45 am]
Billing Code 4710-10-M

h. Counter-Terrorism Rewards Program [1] (Bureau of Diplomatic Security, U.S. Department of State)

U.S. Offers up to $7 Million for Information About Terrorists

The U.S. Department of State offers substantial rewards for information preventing acts of international terrorism against United States persons or property, or leading to the arrest or conviction of terrorist criminals responsible for such acts. The reward level is up to $7 million when U.S. civil aviation is targeted by terrorists.

The Counter-Terrorism Rewards Program was established by the 1984 Act to Combat International Terrorism, Public Law 98–533. Under the Rewards Program, cooperating individuals and their immediate family members may be relocated to the U.S., or elsewhere, and they are assured complete confidentiality. Rewards, totaling millions of dollars, have been paid in dozens of cases. Innocent lives have been saved and terrorists put behind bars.

In 1994, Congress expanded the definition of "international terrorism", authorizing rewards for information regarding " . . . any act substantially contributing to the acquisition of unsafeguarded special nuclear material . . . or any nuclear explosive device . . . by an individual, group, or non-nuclear-weapon state."

Public-Private Partnership

In 1990, the State Department forged a unique public-private partnership with the Air Transport Association of America and the Air Line Pilots Association, International, in which each organization pledges up to $1 million to supplement rewards paid by the U.S. Government for information that prevents a terrorist act against U.S. civil aviation, or leads to the arrest and conviction of any person who has committed such an act. This has resulted in a maximum reward of up to $7 million in such cases.

The U.S. Government's standing reward offer of up to $5 million applies in all cases not addressed by the partnership agreement. Moreover, efforts are underway to expand the Government partnership with the private sector, so that rewards at the $7 million level can be offered outside the sphere of civil aviation.

Interagency Rewards Committee

The Director of the Diplomatic Security Service, or his/her designee, chairs an interagency committee which identifies reward candidates and then recommends rewards to the Secretary of State. This committee serves as the forum for discussion of many aspects of the Program. The Interagency Rewards Committee is comprised

[1] U.S. Department of State HEROES Homepage: http://www.heroes.net/pub/heroes/content2.html

of representatives from the White House National Security Council staff, the Central Intelligence Agency, the Department of Justice, the Federal Bureau of Investigation, the Drug Enforcement Administration, the U.S. Marshals Service Witness Security Program, the Immigration and Naturalization Service, the Federal Aviation Administration, the Department of Energy, and the Department of State.

EVERY GOVERNMENT AND EVERY CITIZEN

While the law governing the Rewards Program is aimed at terrorism directed against Americans, the United States shares information with other nations whose citizens are at risk. Every government and every citizen has a stake in bringing terrorists to justice and in preventing acts of terrorism. Terrorists are violent criminals. They must be stopped.

- On August 7, 1998, terrorist bombings in Nairobi, Kenya and Dar es Salaam, Tanzania tragically resulted in hundreds of deaths and the savage maimings of thousands, those murdered included U.S. Embassy personnel in Nairobi.
- On the morning of November 12, 1997, Ephrahim C. Egbu, Joel B. Enlow, William L. Jennings, and Tracy L. Ritchie, employees of the Union Texas Petroleum Company (UTP) who were in Karachi on temporary assignment, were picked up from the Sheraton Hotel for a ride to UTP headquarters along the waterfront. As the station wagon in which they were traveling proceeded across the only bridge leading to the UTP office building, a red Honda Civic pulled in front and two gunmen jumped out. The gunmen fired into the UTP station wagon, brutally murdering the Pakistani driver, Anwar Mirza, and Messrs. Egbu, Enlow, Jennings and Ritchie.
- During the period December 1996 to January 1997, sixteen letter bombs disguised as holiday greeting cards were delivered through the mail to recipients in the United States and the United Kingdom.
- On June 25, 1996, the brutal and cowardly terrorist attack on a multi-national peacekeeping force in Dhahran, Saudi Arabia left 19 dead and hundreds injured. These peacekeepers were enforcing United Nations sanctions and the dead and injured represent citizens from several nations. The Department of State is offering a reward of up to $5 million for information leading to the arrest and/or conviction of those responsible for the Khobar Towers bombing. Additionally, the Government of Saudi Arabia is offering a reward of $3 million.
- On July 4, 1995, Dr. Donald Hutchings, a respected American medical professional, was abducted by unknown persons in the hill country of Kashmir. Please help us find Dr. Hutchings.
- On March 8, 1995 in Karachi, Pakistan, terrorists armed with automatic rifles murdered two American Consulate employees and wounded a third as they traveled in the Consulate shuttle bus.
- On January 6, 1995, a fire broke out in an apartment in Manila occupied by Khaled Shaikh Mohammad. The information developed from an investigation revealed that in August 1994

through January 1995, in this apartment and elsewhere, Khaled Shaikh Mohammad unlawfully and willfully conspired to bomb U.S. civilian airliners by placing explosive devices on twelve airliners flying over the Pacific Ocean during a two-day period in January 1995.

- On February 26, 1993, terrorists bombed the New York World Trade Center, murdering six innocent people, injuring over 1,000 others and trapping terrified school children in a smoke-filled elevator for hours.
- On January 25, 1993, Mir Aimal Kansi allegedly murdered two persons and injured seriously three others, allegedly firing an AK–47 assault rifle into cars waiting at a stoplight.
- On December 21, 1988, terrorists destroyed Pan American Flight 103. The terrorist bombing of Pan Am 103 over Scotland points to the global impact of terrorism. The plane carried 259 citizens from 30 nations, including Americans, when it was destroyed over Lockerbie, Scotland; another 11 persons perished on the ground.
- In April 1986, one of the youngest victims of terrorism, nine-month-old Demetra Stylian Klug, was killed in the terrorist bombing of TWA Flight 840.
- On June 13, 1985, terrorists hijacked TWA Flight 847. During a violent rampage against passengers and crew, they beat Robert Stethem to death then dumped his body onto the tarmac.
- On October 23, 1983, 243 U.S. Marines were murdered in a cowardly truck bomb attack, ending their mission to help establish peace for the people of Lebanon.
- During the 1980's, in conditions of the utmost cruelty and deprivation, kidnapped American citizens—as many as nine at one time—were held hostage in Lebanon. For long and painful years, they were chained in the dark, beaten, and denied medical care. Three were murdered during their captivity.
- In the past 22 years, terrorist actions in Greece have resulted in the deaths of four Americans: Richard Welch, George Tsantes, William Nordeen, and Ronald Stewart, injuries to 28 other Americans, and a rocket attack on the Embassy compound in February 1996.

EMPHASIS ON PREVENTION

During the first four years of the Program, the State Department offered specific rewards for information leading to the arrest or conviction of those responsible for specific terrorist attacks. In December 1988, however, new emphasis was placed on provisions of the law which allowed for payment of rewards in cases where information led to the "prevention, frustration, or favorable resolution of terrorist attacks against United States persons." Specific reward amounts for particular terrorist incidents were no longer announced. It was instead announced the Secretary of State is authorized to pay for information regarding any past, present, or planned future act of terrorism. This policy reaped benefits during Operation Desert Storm, during which the Program was heavily publicized.

OPERATION DESERT STORM

At the start of the Persian Gulf War, an informant in an East Asian country came forward with alarming information about a series of terrorist attacks planned by the Iraqi intelligence service. The terrorists had already surveyed their intended targets. They had acquired automatic weapons, grenades and high explosives. The attacks were beyond the planning stage and about to be carried out. One of the attacks, a planned terrorist bombing and strafing of airline ticket counters at a major airport, was scheduled to be carried out within 48 hours. The cooperating individual provided information which was essential in thwarting the planned terror attacks; and the terrorists were stopped in their tracks by U.S. and host nation authorities. Had the planned attacks succeeded, scores of Americans and citizens of our coalition partners would have been murdered. The informant, and his/her immediate family, were relocated under the Rewards Program to a place of safety in the United States. He/She was given a reward of approximately $1/2 million for coming forward and saving lives.

NEW YORK WORLD TRADE CENTER BOMBING

On February 26, 1993, the phenomenon of terrorism struck home for Americans in New York. A large improvised explosive device, concealed in a vehicle, was detonated in the sub-ground garage of the 110-story World Trade Center complex. One of the terrorists responsible, when subsequently captured, admitted the attackers sought to collapse one or both of the twin towers, killing tens of thousands of innocent people. The terrorists who bombed the World Trade Center succeeded in murdering six innocent people, injuring 1,000 others, and trapping terrified school children in a smoke-filled elevator for hours. Suspected terrorists Abdul Rahman Yasin and Ramzi Ahmed Yousef fled the United States following the bombing. Yasin is believed to be hiding in Iraq. Immediately following the indictments of Yasin and Yousef, the U.S. launched a massive international manhunt for the two fugitives. Wanted posters offering up to $5 million rewards for information leading to their capture were distributed in a variety of languages. Multi-language leaflets containing the reward offers were also sent throughout the world. Even matchbooks containing photos of the fugitives have been distributed. On February 8, 1995, based upon information provided through the Counter-Terrorism Rewards Program, Ramzi Ahmed Yousef was captured in Pakistan. He is currently in jail.

PUBLIC EFFORTS

The State Department has an ongoing public campaign to promote awareness of the Rewards Program. Advertisements have been placed both to promote awareness of the Program and to reach those with information. Ads in English, Arabic, Spanish, French, German and Russian have appeared in publications as far-ranging as The New York Times, Al Hayat, Paris Match, Die Welt, and Pravda. Additionally, public service announcements featuring entertainment personalities Charlton Heston, Charles Bronson, and Charlie Sheen have been widely distributed.

For further information, contact:

Rewards for Justice
P.O. Box 96781
Washington, D.C. 20090-6781, USA.

Internet: mail@dssrewards.net

Voice: 1-800-HEROES-1

4. Department of Defense

a. Weapons of Mass Destruction (WMD) Reserve Component Integration Plan

Partial text of the Department of Defense Plan for Integrating National Guard and Reserve Component Support for Response to Attacks Using Weapons of Mass Destruction, January 1998

MEMORANDUM FOR THE UNDER SECRETARY OF THE ARMY

SUBJECT: Transmittal of the Weapons of Mass Destruction (WMD) Tiger Team—Reserve Component Integration Plan [1]

This plan was developed at the direction of the Deputy Secretary of Defense. It is based on using the premise that disaster relief is primarily a state mission. Given the unique nature of a WMD attack, we anticipate requests for federal assets much earlier than during typical disasters. Accordingly, we focused on the most likely tasks that DoD would be asked to support as the Federal Response Plan is implemented in support of a WMD event. With integration of the RC as our cornerstone, our work focused on the vulnerabilities from a United States' state, territory and possession perspective.

During the mission analysis we assessed current DoD capabilities. Our analysis concluded we are insufficiently prepared to perform likely tasks which other federal agencies may request within consequence management. Additionally, there is a significant void in the response community chemical, biological and radiological assessment capability. As a result, we found it necessary to create a DoD response capability that does not exist today. These Rapid Assessment and Initial Detection Elements will assist with agent identification and appropriate hazard mitigation in the affected areas of a WMD release. Operationally, these elements will be responsible for identifying the areas to evacuate and where it is safer to remain. The elements are intended to respond under the State control and, if necessary, be available for military contingencies. We recommend fielding teams in every state. We were reminded frequently during our survey process, if the responders were not in the geographic proximity, then they were likely to be too late. This plan represents a beginning, a start point, of a larger effort that requires support of senior leadership. So too must be our overall commitment to prepare for WMD attacks. Preparing for this mission requires a multi-year effort.

Finally I would like to recognize the Team that made this integration plan possible. Lt Col Jay Steinmetz from the Forces Com-

[1] Full text of this hyperlinked document is available on the World Wide Web at: *http://www.defenselink.mil/pubs/wmdresponse/*.

mand Domestic Plans Branch served as the Tiger Team Chief. In that capacity, he performed superbly and represents a real DoD treasure. The core group included: Mr. William McCoy, Office of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict; COL Chuck Winn, Office of the Assistant Secretary of Defense for Reserve Affairs; LTC Tim Madere, Office of the Under Secretary of the Army; Maj Keith McCullough, Office of Air Force National Security Emergency Preparedness; LTC Pete Aylward, Directorate of Military Support, LTC Dutch Thomas, National Guard Bureau, and MAJ Alicia Tate-Nadeau, U.S. Army Reserve Command.

Special recognition is due to Captain Todd Burton of the Army National Guard Military Support Branch, and Major Tom Welch of the U.S. Army Reserve 100th Division, whose technical contributions to the team and their agencies, truly ensured a quality final product. This Team, truly experts in their respective fields, have exceeded the standards by every measure. Their work must be regarded as "above and beyond" the call.

(signed)
Roger C. Schultz
Brigadier General, USA
Executive Director

FOREWORD

BACKGROUND

The Defense Against Weapons of Mass Destruction Act of 1996 sponsored by Senators Nunn, Lugar, and Domenici mandates the enhancement of domestic preparedness and response capability for terrorist attacks involving nuclear, radiological, biological, and chemical weapons. The Legislation provided funding to improve the capability of the federal, state and local emergency response agencies to prevent and, if necessary, respond to domestic terrorist incidents involving weapons of mass destruction (WMD).

The Secretary of Defense (SECDEF) designated the Secretary of the Army (SECARMY) as the Executive Agent for DoD program implementation. The Assistant Secretary of the Army for Installations, Logistics, and Environment (ASA(ILE)) provides oversight for the Director of Military Support (DOMS) as the Staff Action Agent. The Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (ASD(SO/LIC)) provides policy and funding oversight for the DoD Domestic Preparedness Program.

A Senior Interagency Coordinating Group (SICG), chaired by the Federal Emergency Management Agency (FEMA), provides direction for orchestration of the overall program, ensuring that terrorism-related federal preparedness programs are coordinated nationally to enhance state and local response capabilities. ASD (SO/LIC) and DOMS represent DoD on the SICG. The SICG receives guidance from the National Security Council (NSC).

The Interagency Strategic Plan, developed in concert with our federal interagency partners represented on the SICG, was written to enhance response using a peacetime context addressing incident models such as the World Trade Center and the Tokyo Subway. While many facets of response are included in this program, its

overwhelming emphasis is on training first responders in large U.S. cities. Interagency teams coordinate with local city officials including fire, law enforcement and medical responders to tailor training to meet their specific needs and requirements.

As a result of an October 3, 1997 Defense Review Board meeting, the Deputy Secretary of Defense asked the ASD (SO/LIC), ASD (Reserve Affairs), and the ASA (ILE) to provide an assessment for integrating the National Guard and Reserves into ongoing Nunn-Lugar-Domenici sponsored WMD Domestic Preparedness programs. On October 19, 1997 the Deputy Secretary of Defense (DEPSECDEF) returned the initial Reserve Component (RC) plan seeking a more complete RC integration model.

On November 3, 1997 the DEPSECDEF directed that the Under Secretary of Defense for Personnel and Readiness oversee the development of a plan to integrate the Reserve Components into the DoD response to attacks using WMD. During a November 7, 1997 meeting, the Under Secretary of Defense directed the construction of a complete model for integrating the Reserve Components into a consequence management response for domestic terrorism incidents involving weapons of mass destruction. The formation of a core group of experts, with support from agencies throughout the Department, was formed to complete the plan. In a November 14, 1997, memorandum, the Under Secretary of Defense placed the Under Secretary of the Army in charge of the plan development. Subsequently, the Under Secretary of the Army directed this core group "Tiger Team", to incorporate the capabilities of the RC into the plan. The Tiger Team tasking included developing the concept, model, overall direction for the program, and the funding necessary to support the RC integration. The Team's focus on the appropriate, substantive and integrated DoD support model to local, state, and federal government authorities responding to a WMD attack form the basis for this plan.

In developing this plan, the Tiger Team reviewed existing programs, applied scenario-driven analysis, and sought the opinions of other recognized experts in the Emergency Preparedness field. The Tiger Team recognized statutory restrictions and training limitations as part of their analysis and used the Interagency Strategic Plan and the Federal Response Plan (FRP) as the framework for roles and missions definition.

This plan outlines the evolutionary process to fill existing gaps in consequence management response capabilities. It focuses on improving DoD support for the response to a WMD event. In particular, response options were developed to incorporate and leverage the unique assets and capabilities of the Reserve Component into the overarching WMD strategy.

METHODOLOGY

The Tiger Team mission and charter focused on producing a comprehensive plan to incorporate work from many previous efforts and leverage all available assets. The Tiger Team recognized that any response effort must be accomplished within the statutory and regulatory provisions that govern Military Support to Civil Authorities (MSCA). A questionnaire designed to assess current DoD capabilities was developed. This survey resulted in a response pro-

file outlining DoD capabilities to support the Emergency Support Functions in the FRP.

More specifically, the team used Annex C to the U.S. Government Interagency CONPLAN entitled "Combating Domestic Weapons of Mass Destruction (WMD) Terrorism (Draft- November 10, 1997)". The annex lists the tasks the Interagency Group deemed critical to successfully respond to a WMD incident. The Tiger Team grouped these tasks to correspond with the Emergency Support Functions in the FRP. Next the Team identified vital response tasks and requested the Services assess their capability to perform the tasks that DoD would likely be asked to support. The Team consolidated the Service responses to identify existing gaps in the DoD capability to respond to a WMD event. The results form a snapshot baseline of capabilities and assets.

Following the assessment of current capabilities, the Team developed a model for a prototype National Guard response concept that enhances and supports the existing and planned federal response structure. The model was tested for appropriateness by querying experts in the field representing the first responder community, primary federal agencies tasked to support state and local governments, and knowledgeable representatives from DoD organizations. These experts provided the Team with comments and recommendations. The Tiger Team also reviewed and considered numerous authoritative DoD sanctioned studies. These included the findings of the 1997 Defense Science Board (DSB) Summer Study on Transnational Terrorism, and the Chem-Bio 2010 (Foss-Downing) Report. It is recognized that some interagency partners possess a robust capability, and may already have sufficient resources to deal with small-scale WMD events. This plan capitalizes on these existing resources and provides a basis for modeling, analysis and prototyping for further exercise. As a result, a framework for even more enhanced integration of the Total Force into the WMD program is clearly possible. The existing DoD Directives, policies, and MSCA related statutes were also considered in the development of this plan.

The Tiger Team recognized the federal response concepts identified in the May 1, 1997 Report to Congress and the SICG Strategic Plan. In addition, the Tiger Team reviewed the United States Atlantic Command (USACOM) and Chemical and Biological Defense Command (CBDCOM) response plans which included Response Task Force (RTF) and Chem-Bio Rapid Response Team concepts. Upon review, it was evident that few military elements are currently focused, trained or equipped to respond to WMD events. Hence the purpose of the project -- to increase the DoD response capabilities while developing the potential within the Reserve Component units.

While this project focuses on the RC response to a WMD attack on cities, there are other areas potentially at even greater risk. With our military today primarily CONUS based, the ability to project our Nation's military power becomes crucial to our military response options. By leveraging the Reserve Component capability, the DoD response model takes on a new and different dimension. Even further as certain RC units qualify for direct deployment, a local WMD response capability becomes all the more important.

The employment of a WMD in the United States against our power projection systems during a Major Theater War could severely degrade our ability to respond during a crisis. Both the Chem-Bio 2010 Study and the 1997 DSB Summer Study on Transnational Terrorist Threats found that no dedicated force structure exists to address potential CB use on military and civilian facilities in CONUS or in theater. At issue - projecting our Nation's military power at the appropriate time and place.

The concept for an integrated DoD consequence management model recognizes that the same or similar capabilities are required against this asymmetric threat. The response model in this plan includes force protection concepts, research & development, and resource allocations that could be applied to CONUS Major Theater of War enabling facilities. Here again, using the RC integrated response capability would support both the National Military Strategy of Force Projection by providing support to United States bases prior to and during operational deployments and also provides a response capability to WMD attacks on other U.S. targets. In addition to current tactical battlefield CB defense units, the Total Army Analysis (TAA) has documented the need for additional CB structure. As these new units are stationed, the USAR and ARNG leadership will be informed of the gaps in state and regional coverage. These new MTOE units will greatly enhance the capability to respond to WMD emergencies. Again, the existing RC unit capability is being leveraged. Since there is a relationship between the WMD skills and the unit's wartime mission, a complementary outcome clearly exists.

The methods for the first phase of this project and during the mission analysis were oriented first on the units in the current force and their capabilities to respond to WMD attacks. In the final analysis, the concept outlined here reaches far beyond just local WMD contingencies. Over time, these response elements will develop the skills necessary to be employed at US military bases or at other strategic points of U.S. interest under Title 10 U.S.C. In addition to the current force structure, this plan outlines a requirement for new structure. This proposed structure is not large by any measure but the potential impact is enormous. Further detailed in this plan, the Rapid Assessment and Initial Detection (RAID) Element provides the core capability for the technical DoD response. Early assessment and detection of a WMD agent, determining the concentration of the release and the areas to evacuate or remain are the likely technical areas the DoD will be asked to support.

These questions form the most significant challenge facing communities and states as they respond to WMD attacks. Here again, National Guard and RC integration will enhance the DoD capability in response to WMD attacks.

EXECUTIVE SUMMARY

This plan was developed by direction of the Deputy Secretary of Defense. Its aim is to improve the military capabilities required to effectively support local, state, and federal agency consequence management response to terrorist attacks. These attacks may include the use of nuclear, radiological, biological, and chemical weapons - Weapons of Mass Destruction.

The Quadrennial Defense Review and National Defense Panel Report underscore the need to fully address the possibility that a future adversary will use biological or chemical weapons and integrate that threat into defense planning. Appropriate acquisition, intelligence and domestic response operations will result. Emerging doctrine, training and equipment requirements must be developed in concert with this theme. Recognizing the importance and understanding the complexities involved, we must provide the force with a capability to defend against and respond to asymmetric attacks at military installations or support the response to attacks on our homeland.

The very nature of a WMD attack places tremendous pressure on the local response community. As a result, consequence management planning is just as demanding and even evolutionary in many respects. This plan outlines the concept to fill existing gaps in consequence management response capabilities. It defines the concepts, model, direction, and funding required for appropriate, substantive, integrated military support to local, state, and federal government authorities responding to the use of weapons of mass destruction. Specifically, the plan focuses on improving DoD's support for the response to a WMD attack. This plan includes response options. Options that explore ways to incorporate and leverage unique Reserve Component assets and capabilities into the overarching local, state, and federal interagency effort to assist first responders.

This effort reinforces the Department of Defense supporting role in the overall domestic response capability. Furthermore, an efficient response requires cooperation among federal departments and agencies, as well as state and local authorities. Each of these governmental organizations possesses unique responsibilities, priorities, and demands on resources. Success depends on a fully integrated effort that shares both a common vision and mutual goals and objectives. Consequently, this plan builds upon previous interagency work (most notably the Senior Interagency Coordinating Group Strategic Plan written August 29, 1997) and develops DoD capabilities to support those concepts and initiatives.

The complementary skills of the Reserve Component create a more robust DoD response capability that must be integrated into a comprehensive WMD consequence management response. The realities of an operational environment are characterized by the proliferation of weapons of mass destruction, rapidly changing technologies, and a smaller military with severely constrained resources. This plan reinforces the principles in the Defense Reform Initiative and conveys the structure and direction required for implementing and institutionalizing changes necessary in the DoD for successful program execution.

The first part (Chapters 1-3) defines the plan's purpose and scope, identifies the nature of the problems we face as a nation in responding to WMD attacks, and assesses current capabilities to respond. It sets the conceptual foundation of the response process and highlights the need to enhance currently limited response capabilities. The second part (Chapters 4-6) identifies the tasks for improving military response capabilities, describes the required re-

sponse elements, and outlines the training requirements necessary to establish and sustain the essential skill levels.

Functional tasks which the military anticipates from local, state, and other federal agencies have been defined for the DoD response elements based on the Emergency Support Functions in the Federal Response Plan. Specific elements have been identified to perform these functional tasks. The integration of these elements into the current response model provides a flexible, robust response capability that can be applied to support local, state, and federal responders.

Finally, the annexes provide the framework for a continued effort by the program office. They provide additional information, references, points of contact, and specific equipment and training requirements for those elements that will be initially organized. The first year program sets the foundation to establish a Rapid Assessment and Initial Detection capability in every state and territory. It also begins the identification of, training for, and equipping of reconnaissance and decontamination elements from the existing chemical companies in National Guard and Reserve Component. Other elements will necessarily be refined and focused during the first year of the program. The plan provides sufficient detail to establish a program office to integrate these activities, execute the FY99 budget request, and field the initial military support elements. As this program develops, the new program office performs a key role in synchronizing the RC integration activities with existing interagency programs.

Since the Tiger Teams effort was executed in short measure, portions of this plan will require additional study and development. Of particular note are the results of the DoD capability survey. It was evident early on in the survey process that the Department sponsored training in the Domestic Preparedness Program that could also be of real benefit to selected members of the RC. It is envisioned during the first year of this integration program that a small cadre at each installation, reserve center and armory will receive the (Awareness Biological Chemical Plus) ABC+ training. ABC+ is based on the Nuclear, Biological, and Chemical (NBC) awareness course currently being taught in the NLD City Training Program. In addition to the awareness training, key leaders and individuals will receive training in WMD emergency procedures. These procedures will also reinforce the proper techniques, protocols, and references that are essential to first responders. The intent is to answer questions that might be asked and provide an awareness of particular items to be alert to as the events develop during a WMD event. An ABC+ checklist will be provided that will guide the person through a series of questions that provide a profile of a potential WMD attack. ABC+ training will be provided on an interactive CD-ROM. At a minimum, full time National Guard and Reserve Component staff members need to complete the ABC+ training.

Overall, this is an integration effort, one that requires a long-term commitment. The Program Office must assume sponsorship and follow the major themes outlined in this work -- both now and into the future.

CHAPTER 1: OVERVIEW

INTRODUCTION

The United States is beginning to realize that terrorists may attack individuals, institutions, and facilities with weapons of considerable destructive power. Under Secretary of State Bartholomew, during testimony before the House Armed Services Committee in 1993, delivered an almost prophetic warning when he said,

> "We are especially concerned about the spread of biological and toxin weapons falling into the hands of terrorists. . . . To date we have no evidence that any known terrorist organization has the capability to employ such weapons . . . However, we cannot dismiss the possibilities . . . It may be only a matter of time before terrorists do acquire and use these weapons."

While not employing true weapons of mass destruction, the 1993 terrorist bombing of the World Trade Center in New York and the 1995 bombing of the Murrah Federal Building in Oklahoma City portend the tremendous response necessary if a WMD is used in the US. Few communities, including military installations and facilities, have the full array of response assets and expertise required to adequately deal with the effects of radiological, biological, or chemical weapons or the necessary depth to sustain these response operations. They must rely on the concerted effort of local, state, and federal government agencies, cooperating with private organizations, to meet the technological, medical, and engineering demands posed by such attacks. The DoD anticipates requests from civilian agencies responding to WMD attacks and plans to augment the local response capability with expertise, manpower, and equipment. Conversely, the DoD may also require mutual community and state support to respond to attacks on military installations, bases, or ports necessary to deploy and sustain military forces employed overseas.

PURPOSE AND SCOPE

The DEPSECDEF directed the development of this plan which includes the concepts, model, direction, and funding required to deliver an appropriate, substantive, integrated military support to local, state, and federal government authorities responding to the use of WMD. This plan provides a comprehensive and cohesive program consistent with national policy and DoD Directives. It integrates and advances many ongoing efforts throughout the Department and specifically addresses issues identified in a number of studies and reports. The plan supports evolving interagency plans including the FRP and the evolving Interagency Plan for WMD Response. It specifically identifies the actions required to leverage the capabilities of United States military forces. These capabilities are vital to fill the gaps in civil response assets currently prepared to respond throughout the United States. Many cities, states, and other federal agencies simply do not have the focus, the equipment, or the trained personnel needed in such a demanding environment. This plan addresses the DoD role within that context and the emergency management tasks that may require a DoD response.

This plan develops capabilities for operational response to nuclear, biological, and chemical threats within the confines of the United States, its territories, and possessions. These capabilities can and should be used outside the United States when required to support validated Commander-in-Chief requirements.

DEFINITION OF WEAPONS OF MASS DESTRUCTION

For the purpose of this strategic plan, WMD include any weapon or device that are intended, or have the capability, to cause death or serious bodily injury to a significant number of people through the release of toxic or poisonous chemicals or their precursors, a disease organism, or radiation or radioactivity.

THE THREAT OF WEAPONS OF MASS DESTRUCTION

The threat to the US posed by WMD is characterized by several factors. Recent events illustrate a real threat of domestic terrorism. Today terrorists have an improved ability to collect information, raise money, and disseminate rhetoric. Advanced information technology available through the Interned allows extremists to communicate widely and efficiently. Additionally, publicly available databases serve as repositories for technical information relating to weapons production.

Another important factor is that WMD, together with the materials and technology used to make them, are increasingly available. Many of these materials are widely available for legitimate commercial purposes. Moreover, the disintegration of the former Soviet Union increased concerns about the protection, control, and accountability of WMD, related materials and technologies, and the potential unemployment and proliferation of thousands of scientists skilled in this field. Transnational threats arising from the collapse of the eastern bloc, including the development of Chem-Bio capabilities by terrorist organizations, have increased the potential for attacks within our borders. A final factor is the relative ease of manufacture and delivery of WMD. Facilities required to produce radiological, biological, and chemical weapons are small and hard to detect, compared with those associated with nuclear weapons.

The Defense Against Weapons of Mass Destruction Act contains several findings which define the requirement for an enhanced domestic response capability. Among these findings are:

> ". . . the capability of potentially hostile nations and terrorist groups to acquire nuclear, radiological, biological, and chemical weapons is greater than at any time in history."
>
> "There is a significant and growing threat of attack of weapons of mass destruction on targets that are not military targets in the usual sense."
>
> ". . . the threat posed to the citizens of the United States by nuclear, radiological, biological, and chemical weapons delivered by unconventional means is significant and growing."
>
> "The United States lacks adequate planning and countermeasures to address the threat of nuclear, radiological, biological, and chemical terrorism."

PLANNING PRINCIPLES

The plan underscores the principle that domestic disaster relief is fundamentally a State mission falling with the State's broad authority/responsibility for public safety and welfare within its borders. Consequence management of a WMD incident is a category of disaster relief over which the State usually will have primary responsibility. Federal assistance in WMD consequence management situations generally will be in support of the State's disaster relief efforts, to include efforts in response to a WMD incident. Recognizing these basic principles, the plan focuses on filling the void in the State's initial assessment capability and the United States' ability to rapidly facilitate required assistance in excess of the State's capability to respond.

Two organizing principles were considered in developing this plan:

To structure the force based on the State disaster relief mission
To structure the force based on the Federal national defense/MSCA mission

The team chose the Federal mission as the organizing principle. Under this organizing principle, the immediate response elements act as the tip of the Federal MSCA spear. Although immediate WMD response would be in a State status, under the control of the Governor, the unit's force structure would also support homeland defense, MSCA missions, and provide a secondary warfighting capability.

This organizing principle is consistent with the use of Federal military funds and other resources in support of this plan, and the extension of Federal military personnel benefits to National Guard personnel assigned to units engaged in these operations. This choice also avoids the legal and policy difficulties inherent in Federally funding and organizing a National Guard unit solely to conduct a State mission and is consistent with the general organizing principle of the National Guard for other missions.

OPERATIONAL CONCEPT

The operational concepts outlined in this plan are based on the principles noted above. The Rapid Assessment and Initial Detection (RAID) Elements, in their immediate response capacity, will assist in confirming the nature of a WMD attack. In most instances, the response elements will remain under State control. Under a worst-case scenario, Federal resources may also be requested very early in a WMD incident. We must anticipate these cases in planning for a coordinated local, state and federal response.

CHAPTER 2: THE PROBLEM

RESPONSE CAPABILITIES TODAY

Terrorist attacks using Sarin gas (a nerve agent) in the Tokyo subway affected more than 5,000 people. Concern for similar or larger events using chemical, biological, or radiological weapons have spurred legislation and programs to prepare local firefighters, emergency medical technicians, and other first responders. Despite

these commendable efforts, significant shortfalls remain in trained and equipped response capability throughout the United States. The relatively small-area bombing in Oklahoma City required 11 of today's 27 national Urban Search and Rescue Task Forces. Even these highly skilled teams are not prepared to operate in or around chemical, biological, or radiological hazards. The sheer size of WMD events may demand the support of many other properly trained and equipped personnel. First response organizations, state support agencies, and other federal agencies require major efforts to develop adequate capabilities. Until this occurs the DoD will continue to be tasked to support the WMD response. Even military units prepared to fight in a nuclear, biological, or chemical environment are not fully focused, trained, or equipped to support response to victims of attacks in the United States. Furthermore, our own ability to project combat power may be severely degraded by asymmetric attacks on sea and air ports of embarkation. Military units must also be prepared to respond to attacks on our facilities and installations.

LEVEL OF CURRENT PREPAREDNESS

Local, state, and federal governments are applying tremendous resources in many ongoing efforts to improve their WMD response capabilities. All responder agencies of local, state, and the federal governments must prioritize resources to address deficiencies in their plans for responding to a domestic WMD event. Military units identified to perform functions in and around the hazard areas will require additional personal protective gear, special training, and periodic exercises to ensure their safety and ability for timely and effective responses. This plan highlights those areas and provides sound solutions to meet those needs.

ASSESSMENTS

Results of the assessments conducted by the Catastrophic Disaster Response Group (CDRG) were highlighted in a report to the President in February 1997. These same shortfalls were identified in the SICG Strategic Plan produced in August 1997. The critical areas of concern which are highlighted below:

- Tailored and timely Federal Response to augment stat and local responders.
- Specialized equipment and coordinated training.
- Capability to deal with a large number of victims.
- Adequate medical supplies and pharmaceuticals: available and stockpiled.
- Baseline information of capability at federal, state and local levels.
- Better planning interface among federal, state and local authorities.
- Prioritization of transportation infrastructure for rapid movement of time-sensitive response resources.
- Timely and accurate emergency information.
- Electronic information management and communications capability.
- Manage stringent Public Safety measures.
- Finalize FRP Terrorism Incident Annex.

In addition to the CDRG assessment, DoD has identified four additional areas not addressed in the existing NLD Domestic Preparedness Program highlighted below:

- Current NLD program targets 120 cities—11 states and 4 territories are not included in this program.
- Federal assets are not well dispersed geographically.
- Military personnel require additional equipment and training to reach an adequate response capability.
- The RC has some statutory limitations that impede response decisions.

MILITARY PREPAREDNESS TO SUPPORT WMD RESPONSE

While many military units possess basic skills and capabilities that can be applied to WMD response requirements, few have been specifically focused on the precise tasks or equipped with the appropriate assets to immediately respond to such an event. During the development of this plan, Services were asked to identify units that might perform the response tasks identified in the interagency WMD response plan and to indicate if those units were adequately organized, trained, and equipped to perform these specific tasks. This survey dramatically displayed existing gaps in procedures, training, and equipment necessary for appropriate response.

For many of the WMD response tasks, focusing units on the missions they may be asked to perform and developing their awareness of the Incident Command System (ICS) is all that may be necessary. For others, specific tasks will require training. In a WMD scenario, selected members will be tasked to deploy to the Hot Zone and operate for extended periods of time, quite different from our wartime practices. Even more demanding, the tasks requiring total decontamination must be anticipated. These are very different practices when compared to our military doctrine today. Here again, the value of training to the same standards, using common terminology and exercising with first responders, we have the opportunity to prepare for this most demanding mission. In general terms today, the Department is not prepared for the WMD response. This plan addresses the areas requiring DoD attention and isolates in some detail the response options the Department may be asked to perform. In the end, the solution to the WMD response mission requires a partnership - military and civilian.

CHAPTER 3: THE RESPONSE

INTEGRATED RESPONSE CONCEPT

Local

Local response to an emergency situation uses the Incident Command System (ICS) to ensure that all responders and their support assets are coordinated for an effective and efficient response. The Incident Commander is normally the senior responder of the organization with the preponderance of responsibility for the event (e.g., fire chief, police chief, or emergency medical). If local assets are not sufficient to meet the emergency response requirements, they request state (or regional) assets through the State Office of Emergency Services.

State

The state's substantial resources, including the National Guard in state status, are coordinated through the state's response plan(s) and are normally coordinated by the state's Office of Emergency Services. If state assets are not sufficient to meet the emergency response requirements, they request federal assets through the FEMA Regional Operations Center.

Federal

The Presidential Decision Directive 39 entitled "U.S. Policy on Counterterrorism" recognizes that there must be a rapid and decisive capability to protect U.S. citizens, defeat or arrest terrorists, respond against terrorist sponsors, and provide relief to victims. The goals during the immediate response phase of an incident are to terminate the terrorist attack so that terrorists do not accomplish their objectives or maintain their freedom, and to minimize loss of life and damage and to provide emergency assistance to the affected area. In responding to a terrorist incident, Federal departments and agencies rapidly deploy the needed Federal capabilities to the scene, including specialized elements for dealing with specific types of incidents resulting from the threat or actual use of WMD. To coordinate the Federal response, the Federal Bureau of Investigation (FBI) and FEMA have been assigned lead agency responsibility for crisis and consequence management, respectively, in response to a domestic terrorist threat or incident.

The FBI is the lead agency for crisis management response to acts of domestic terrorism, which includes measures to identify, acquire, and plan the use of resources needed to anticipate, prevent, or resolve a threat or act of terrorism. The laws of the United States assign primary authority to the Federal government to prevent and respond to acts of terrorism; State and local governments provide assistance as required. Crisis management is predominantly a law enforcement response.

Crisis management activities include active measures for prevention, immediate incident response, and post-incident response. Activities include command of the operational response as the onscene manager for an incident in coordination with other Federal agencies and State and local authorities. The FBI provides guidance on the crisis management response in the FBI Nuclear Incident Contingency Plan (classified) and the FBI Chemical/Biological Incident Contingency Plan (classified).

FEMA is the lead agency for consequence management, which entails both preparedness for and dealing with the consequences of a terrorist incident. Although the affected State and local governments have primary jurisdiction for emergencies, a terrorist attack involving weapons of mass destruction could create havoc beyond their capability to respond. If this were to happen, FEMA would coordinate consequence management activities including measures to alleviate damage, loss, hardship, or suffering caused by the incident; to protect public health and safety; to restore essential government services; and to provide emergency assistance. FEMA would implement the Federal Response Plan, cooperating with State and local emergency response agencies. Final authority to make decisions onscene regarding the consequences of the incident

(rescue and treatment of casualties, protective actions for the affected community) rests with the local Incident Commander.

The federal government, including the DoD, responds to emergency requests from the states through the FRP. After the President declares a major disaster or emergency, the resources of the federal government needed to support the state response are managed by the Federal Coordinating Officer (FCC). When the State Coordinating Officer makes specific requests for assistance, he or she certifies that the state does not have the capability to meet the requirements. The FCO assigns the request to one of the 12 Emergency Support Functions (ESF) represented within the Emergency Response Team. If the lead agency of any ESF is not able to meet the requirements, it may ask the Defense Coordinating Officer (DCO) to provide the necessary response. The DCO coordinates all federal military assistance provided during the consequence management response.

Military Support

The DoD supports local, state, and federal government agencies in planning for and responding to domestic emergencies. Local units may respond under the immediate response doctrine when necessary to save lives, prevent human suffering, or mitigate great property damage. Many units execute memorandums of understanding for mutual support of emergency services with local jurisdictions or municipalities. National Guard units may also respond under state control when directed by appropriate state authorities. Upon the declaration of an emergency or major disaster by the President, the Secretary of Defense or his Executive Agent directs a supported CINC to provide federal military support to the FCO through a DCO and Defense Coordinating Element (DCE). For most domestic emergency responses requiring DoD assets, the DCO controls all DoD response elements. Because of the potentially large number of DoD requirements, the supported CINC may activate a Response Task Force to command and control all federal military personnel responding for consequence management (with the exception the Joint Special Operations Task Force). The RTF deploys to support the federal crisis and consequence management operations in support of the Lead Federal Agency (LFA) during domestic operations. A Chem-Bio Rapid Response Team (CBRRT) under the RTF has been established to provide technical expertise and assessment support to the local officials. A network of Reserve Emergency Preparedness Liaison Officers (EPLOs) from all Services in each state and federal region supports the DCO and provides the military interface to coordinate response requirements and activities with each state and federal region.

At the local, state, and federal levels, a task force oriented structure and process responds to the emergency requirements. The missing elements in most structures are the task-oriented, trained and equipped task force elements that actually perform the required response functions. The local civil Incident Commander directs these response elements. Task-organized elements that can be plugged into the task forces at the local, state, or federal level must be formed.

Active Duty, National Guard, and Reserve forces possess expertise, trained manpower, and equipment that can support response to chemical, biological, radiological attacks at DoD installations and in civilian communities. As the Department of Defense supports all Emergency Support Functions identified in the FRP, we must be prepared to perform those functions which other agencies are not capable of supporting or simply do not have adequate resources to meet the demand. Specific response functions have been identified that may require substantial military augmentation for execution. Units capable of performing these functions must be focused, task organized, adequately trained, and properly equipped to work in and around nuclear, biological, and chemical hazards.

Today's task organized response assets in the DoD are very limited. Expert and capable response organizations like Explosive Ordnance Disposal teams, the Army's Technical Escort Unit, and the Marine Corps Chemical Biological Incident Response Force have been involved in the development of response plans and procedures. The RTF staffs have also been instrumental in organizing and employing military assets to support requests for assistance.

Certain DoD laboratories can also be called upon to respond with specialized equipment and capabilities. One such laboratory is the AMC Treaty Laboratory that was established to verify compliance with the Chemical Weapons Convention (CWC). It is an ISO 9001 registered quality system that was pre-deployed to support the FBI during the Olympics in Atlanta. The US Army Medical Research Institute of Infectious Diseases (USAMRIID) is capable of deploying an Aeromedical Isolation Team consisting of physicians, nurses, medical assistants and laboratory technicians. These team members are specially trained to provide care for and transport of patients with diseases caused by either biological warfare agents or infectious diseases requiring high containment. Also, Edgewood Research, Development and Engineering Center (ERDEC) maintains a rapidly deployable mobile environmental monitoring and technical assessment system. This Mobile Analytical Response System (MARS) provides a state-of-the-art analytical assessment of chemical or biological hazards at incident sites. The Naval Medical Research Institute (NMRI), through their Biological Defense Research Program (BDRP), has designed reagents, assays and procedures for agents classically identified as biological threat, as well as non-classical threat agents in environmental and clinical specimens. This program has developed rapid, hand-held screening assays that can be deployed globally. Though highly capable in their areas of expertise, these teams are extraordinarily limited in their response capacity and could be easily consumed by a WMD event.

The Office of Naval Research Science & Technology Reserve Program (S&T Reserve Program, or Program 38) has a small cadre dedicated to chemical, biological, and radiological defense (CBRD). These include medical service corps officers, hospital corpsmen, and officers of assorted line designators. Program 38's lead CBRD unit--NR NRL Chemical, Biological, and Radiological Defense Detachment 106 (NR NRL CBRD106)--drills at the headquarters of CBDCOM in the spaces of the Naval Research Laboratory's Detachment to CBDCOM. Program 38 members comprise the Navy's intellectual capital of military personnel in CBRD, and can help

the National Team to deal with problems of an unexpected nature; (e.g., one might imagine generically engineered microbes being used against us in which case we can provide Ph.D. microbiologists with connections into academia and industry who could help deal with this problem.) The main contribution of Program 38 officers is probably in providing a reach back resource that responders can tap into to better assess the situation at hand, and formulate the best action to take.

Overall, the group consensus was that the local preparedness for response to WMD terrorist incidents is nominal. To the extent that hazardous material preparedness applies to the NBC arena, some basic military skill levels exist. The group recognized that there are other programs that have specific statutory authority to provide support including the Chemical Stockpile Emergency Preparedness Program and the Non-Stockpile Chemical Material Program. Leveraging the resources provided by these programs as well as the National Disaster Medical System will improve the linkage between expert assistance and the first responders. However, much needed attention must be applied to resourcing, planning, and training for the unique nature of NBC terrorist incidents.

RESPONSE POLICY

The Stafford Act (P.L. 93-288) establishes the authority and process for "all hazards" response to natural and man-made disasters in the United States. It is implemented through Executive Order 12656 and the FRP.

Presidential Decision Directive (PDD) 39 established the policy for crisis and consequence management of terrorist incidents involving the use of weapons of mass destruction.

DoD has assigned the CINCs planning, coordinating, and execution authorities for responding to "all hazards" disasters in the United States and its territories. Response to the consequences of WMD should use the same process as response to other natural and man-made disasters, as specified in the "all-hazard" concepts of the Stafford Act and the FRP and laid out in DoD Directive 3025.1. CINCs have developed plans to support this response as the DoD planning agents for their respective areas. They, in turn, have designated regional planning agents to interface with the other federal agencies and the states. A network of EPLO's from all Services has been established and trained to represent the federal military in each state and in each of the ten federal regions.

DoD support of a federal response to a domestic terrorism incident will be personally managed by the Secretary of Defense, with the assistance of the Chairman of the Joint Chiefs of Staff (CJCS) and the Secretary of the Army. The DoD crisis management response will be provided through the national interagency terrorism response system. DoD response forces will be employed either under the operational control of the Joint Special Operations Task Force or a Response Task Force assigned to the appropriate Unified Combatant Commander.

The Nunn-Lugar-Domenici Defense Against Weapons of Mass Destruction Act of 1996 mandates training and development of capability to respond to WMD attacks in the United States. Response to WMD attacks or accidents must be consistent with the concepts,

response model, and responsibilities for other domestic emergencies. We may often be in the situation that we do not know who or what caused the event to which we are responding. Section 1414, Title IV of the Defense Appropriation, mandates that the SECDEF "shall develop and maintain at least one domestic terrorism rapid response team composed of members of the Armed Forces and employees of DoD who are capable of aiding Federal, state, and local officials in the detection, neutralization, containment, dismantlement, and disposal of weapons of mass destruction containing chemical, biological, or related materials." The DoD has formed the RTF and the CBRRT to meet this requirement. The elements described in this plan further support this requirement.

DoD has developed two consequence management RTFs under the command of U.S. Atlantic Command (USACOM). The headquarters elements of these RTFs are assigned to First and Fifth U.S. Army for responses east and west of the Mississippi River respectively. Forces of the RTF will be tailored and assigned based on the situation. Central to these forces will be technical and specialized units capable of supporting a response to a chemical, biological or radiological incident. One concept being studied is the chemical and biological quick response cell.

Responsibilities for oversight and execution of Title XIV, Subtitle A, Domestic Preparedness, are spread among several organizations. ASD(SO/LIC) has responsibility for policy and resource oversight. The Assistant to the Secretary of Defense (Nuclear, Chemical & Biological Defense Programs) provides resource oversight for equipment procurement. Additionally, in accordance with Section 1413, Title XIV, the Secretary of Defense (SECDEF) designated the Secretary of the Army (SECARMY) to serve as the Executive Agent for the coordination of DoD training assistance to Federal, state, and local officials to better assist them in responding to threats involving chemical and biological weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of biological and chemical weapons and related materials and technologies. As the Executive Agent, the Secretary is responsible for developing the planning guidance, plans, implementation, and procedures for the Domestic Preparedness Program. The SECARMY subsequently named the ASA(ILE) as the focal point for all matters in which the Army has executive agency, and the DOMS as the DoD Staff Action Agent. In a separate directive, the SECARMY directed the Commander, Army Materiel Command (AMC) to appoint a DoD Program Director. AMC subsequently directed Commander, CBDCOM to appoint a DoD Program Director with the primary responsibility to implement the basic elements of Title XIV. Also under Title XIV, for nuclear and radiological preparedness, the Secretary of Energy has specific responsibilities. The Secretary of Energy is responsible to test and improve the responses of Federal, State and local agencies involving nuclear and radiological weapons or related materials. Here again, agency responsibility must be communicated clearly and the value of PDD 39 becomes even more evident.

Co-Chaired by FEMA, the Senior Interagency Coordination Group (SICG) on Terrorism was established to facilitate the interagency coordination of policy issues and program activities in sup-

port of Federal initiatives to assist Federal, state, and local first responders in responding to WMD incidents. The SICG is composed of senior members from DoD, FEMA, the FBI, the Public Health Service (PBS), the Environmental Protection Agency (EPA), the Department of Energy (DoE), the Department of Justice (DoJ), the Department of Transportation (DoT), United States Department of Agriculture (USDA), General Services Administration (GSA), and the National Communications System (NCS).

CHAPTER 4: IMPROVING THE RESPONSE

WMD RESPONSE INTEGRATION PROGRAM GOALS

The Interagency Strategic Plan laid out an ambitious list of objectives that are part of the overall goal to improve the nation's WMD response capability. A program to coordinate and integrate DoD's capabilities to support local, state, and federal consequence management response to WMD events must be established. This program supports the Military Support to Civil Authorities policies of the Department and the plans of the supported CINCs charged to execute that response. It must coordinate and orchestrate many on-going efforts throughout the DoD to meet requirements for response to WMD attacks at our installations and facilities and within civilian communities. The program should:

1. Establish a fully operational DoD preparedness and response capability to deal with potential effects of domestic terrorism involving weapons of mass destruction.
2. Leverage Reserve Component preparedness and response capabilities to deal with these threats.
3. Enhance local, state, and other federal agency access to military capabilities and expertise.

PLAN FOR IMPROVING RESPONSE

Key actions required to implement this program

1. Establish a Reserve Component Consequence Management Program Integration Office to implement this plan. Assign program management responsibility and transfer functions to the program office. A program office of at least 14 people will be established with contractor support to ensure the integration of research & development, procurement, training, and doctrine development for response to WMD. The program director should report to the Secretary of the Army, as the DoD Executive Agent for Military Support to Civil Authorities, through the DoD Director of Military Support and hold quarterly program reviews on project status.

2. Review DoD Directives 3025.1, 3025.15, 3025.12, 3020.26, 5160.54 and others that may require updating as the RC integration effort matures. Assist in the coordination of policy as applied to the many DoD organizations that may become involved in a WMD response.

3. Coordinate the development of legislation that facilitates Reserve Component activation for WMD response.

4. Modify Defense Planning Guidance and the Unified Command Plan to reflect WMD response requirements.

5. Coordinate the development of an OPLAN to respond to terrorist on U. S. installations, facilities, ports, and the states and communities.

Reserve Component Consequence Management Program Integration Office Functions

1. Identify and task military response elements. The Departments will identify specific units to provide the response elements, so the program office can coordinate the training and equipment necessary for each. Each Service will task these units to be prepared to perform the response element mission.

2. Develop and publish individual position descriptions and doctrine for integrated employment of the teams.

3. Integrate WMD training for DCOs, EPLOs, RTFs, and military response elements. Leverage existing responder training programs as the core and develop required specialized training. The program office will coordinate training and exercises to ensure the identified response elements, EPLOs, DCOs, and RTFs receive training identified in the plan. The DoD Emergency Preparedness Course and other regional training programs provide a solid foundation for individual responsibilities of the command and liaison elements. Interagency exercises conducted at the state or regional levels will be used to validate concepts of employment and response integration with local, state, and federal response assets. This training will leverage existing federal training for WMD response (currently led by CBDCOM). Response elements will interface with local and state exercises and federal interagency response exercises. The program office will ensure crossflow of lessons learned and coordinate improvement recommendations between similar response elements.

4. Purchase equipment for the military response elements. In year one, equipment will be purchased for the Rapid Assessment and Initial Detection (RAID) Elements, the reconnaissance and decontamination elements, some of the medical personnel and the laptop computers for the Emergency Preparedness Liaison officers (EPLOs).

5. Identify DoD WMD response assets and capabilities. U.S. Army Forces Command (FORSCOM) will include DoD's WMD response assets and capabilities in the DoD Resources Data Base and coordinate with FEMA to include appropriate information in the Rapid Response Information System. The program office will coordinate this effort with the Joint Staff and Unified Commands.

6. Facilitate training exercises for the military response elements under the CINC's RTF. Coordinate these exercises with local, state, and federal agencies.

7. Identify and coordinate the WMD related interests with the Advanced Concepts and Research & Development initiatives. The program office will identify equipment that requires prototyping, simulation, or testing. There are currently a number of Chemical Defense Equipment (CDE) initiatives of significant value to the WMD response effort. ASA(RDA) initiatives are of particular interest and require attention by the program office. The ASD(SO/LIC) Technical Support Working Group will be a key office to facilitate development of this equipment. The OSD Office for

Counterproliferation will be an additional resource for testing advanced concepts and newly developed equipment.

8. Establish and maintain linkages with the processes of the CJCS Readiness System to include:

The Joint Monthly Readiness Review (JMRR)

- Joint Warfare Capabilities Assessment (JWCA) Teams
- Joint Requirements Oversight Council (JROC)
- Senior Readiness Oversight Council (SROC)

9. Coordinate with the Department of Health and Human Services, Veterans Affairs, FEMA, and other federal agencies in development of the Presidential Report on Preparations for a National Response to Medical Emergencies Arising From the Terrorist Use of Weapons of Mass Destruction, and leverage the results of the report to ensure that the Reserve Components are trained and ready to provide this support.

10. Work with the National Guard Bureau to develop a plan to reprogram current resources to fully resource RAID Elements if additional full time spaces are not authorized.

11. Evaluate geographic dispersion of Reserve Component assets for support within the U.S.

12. Develop or revise procedures and doctrine to address:

- Capability to deal with a large number of contaminated victims.
- Use of chemical units to perform patient decontamination
- Response element tactics, techniques, and procedures
- Response to attacks on U. S. facilities and installations.
- Additional doctrinal shortfalls

13. Ensure medical supplies and pharmaceuticals are rapidly available to military response elements for use in U. S. WMD incidents.

14. Ensure that designated response elements have readily accessible Personal Protective Equipment for rapid deployment to respond within the United States.

15. Develop and publish individual position descriptions and doctrine for integrated employment of the teams.

16. Coordinate the new response capabilities into the ongoing interagency exercise program in order to validate concepts of employment and response integration with local, state, and federal response assets.

17. Ensure communication of lessons learned and coordinate improvement recommendations between similar response elements.

18. Establish at least a partial Rapid Assessment and Initial Detection Element in each State and Territory.

19. Integrate Civilian Hazardous Material (HAZMAT) operations into existing Chemical Training programs.

20. Develop FY00-03 POM requirements.

21. Develop a program to train leaders on HAZMAT, ICS, the FRP and how all of the local, state, and federal agencies interrelate to support the operations.

22. Leverage the existing NLD training programs to provide training to DoD responders.

23. Provide Reserve Component medical personnel with additional specialized training in the management of nuclear, chemical, and biological agent casualties.

24. Develop a rapid systematic notification process to notify military medical personnel when an incident occurs.

25. Upgrade JANUS, Spectrum, or other simulations for use in WMD exercises and execute a proof of concept for using SPECTRUM and JANUS to conduct WMD response exercises.

26. Fund participation by response elements including DCOs, EPLOs, and the RTF staffs in the Nunn-Lugar-Domenici city visits and training.

27. Integrate WMD response elements and assets into the DoD Resources Database.

28. Define requirements for additional number and types of military response elements.

29. Document the authorization document for the RAID Elements and the requirements for any new force structure.

30. Coordinate the development of training material for the NBC Defense Teams.

31. Coordinate the DoD WMD training efforts using distance learning techniques.

5-Year Integration Concept for WMD Response

The program office will develop a schedule of milestones to ensure that the elements identified in this plan are tasked, trained, and equipped in a smooth and efficient manner.

The first year of the program will start with the RAID, reconnaissance, and decontamination elements. Training for medical personnel will also begin the first year. Follow on work will expand training to the other elements, analyze equipment requirements, and orchestrate integration of the response concepts and models.

The chart below[2] shows a phased approach that begins to develop domestic response in FY 99 and certifies coverage by FY 02. The most critical elements to develop, task, train, and equip are the RAID Elements. This will ensure a minimal assessment and requirement definition capability in each state and territory. Additionally, the Reconnaissance and Decontamination Elements, which leverage the capabilities of Army Chemical Companies and Air Force Patient Decontamination Teams, will be trained and equipped over a two-year period. Medical Elements will begin their individual training and development of concepts for fielding and equipment purchases in the second and subsequent years. The other less technical elements may not require as much training to be fully prepared for a WMD response. By phasing in the element tasking, training, and equipping over time, less stress will be placed on doctrine development, training delivery, and procurement activities. Lessons learned from evolving military and civil assets will allow for review and improvement of element procedures and structures in the latter years.

The program office will develop and integrate operational plans and doctrine for the domestic WMD response elements, working closely with the supported CINCs. The program office will prepare

[2] See *http://www.defenselink.mil/pubs/wmdresponse/chapter_4*.html.

specific procedures for each response element and evolve those procedures as the response elements mature. These procedures will be based on established and evolving interagency plans and procedures. Integrated exercises and training will ensure elements can operate together as military units and with corresponding civilian responders.

CHAPTER 5: RESPONSE ELEMENTS

OVERVIEW

The Rapid Assessment and Initial Detection (RAID) and other elements have been identified to support local, state, and federal agencies responding to a WMD. The basis for developing these elements is the four elements of the Incident Command System (Information and Planning, Operations, Logistics, and Finance) and the 12 Emergency Support Functions of the Federal Response Plan. Elements are designed to "plug into" existing task force structures required by the incident commander, the Governor, or the CINC responding in support of the FRP. A potential model response is portrayed in the figure below.

COMMAND

Military command elements are established by the Adjutant General for the National Guard responding as state resources and by the CINC for the area (s) affected for federal military assets. In most cases, the pre-designated DCO coordinates for any federal military assets. A RTF may be deployed to provide command and control during a major federal response. The CINC's RTF is responsible for the command and control of all responding military elements, less the Joint Special Operations Task Force. It is comprised of command, staff, and technical experts required to support the WMD consequence management response.

[Organization Chart][3]

RESPONSE ELEMENTS

Most military elements called to respond to a WMD attack will perform operations supporting the incident commander, state authorities, or federal agencies requiring their help. These elements include:

Rapid Assessment and Initial Detection Element

The point of the military response spear is the National Guard Rapid Assessment and Initial Detection Element. This element is comprised of highly trained experts in a cross-discipline of functional areas that can deploy and assess the situation, advise the local, state and federal response elements, define requirements, and expedite employment of state and federal military support.

Mission: Provide early assessment, initial detection, and technical advice to the incident commander during an incident involving weapons of mass destruction. Facilitate identification of DoD asset requirements.

[C2 Cell Organization Chart][3]

[3] See *http://www.defenselink.mil/pubs/wmdresponse/chapter_5*.html.

C2 Cell: Provides overall command and control of the assessment team and conducts hazard modeling.

Recon Cell: Provides early detection, initial sample collection, and NBC reconnaissance.

Medical Support Cell: Provides an initial DoD medical assessment.

Security Cell: Provides initial assessment of security requirements and manages force protection/assessment element security.

Logistics Cell: Determines initial resource requirements and provides supply and maintenance support for the assessment element.

Air Liaison Cell: Coordinates for transportation and/or air movement of assessment element.

Communications Cell: Provides internal communications within the assessment element, coordinates for communications connectivity with civilian responders, and maintains a reach back capability for additional technical expertise.

Units Employed: The RAID Elements assigned to each state/territory represent the first military responders. Regardless of the full-time and traditional member mix, the reconnaissance team will likely be the primary area that technical assistance will be requested. Given the goal of four-hour on-scene, the demands of the RAID Elements will be significant. While not ideal in terms of fully developed response capability, teams from surrounding states or even use of the regional assets may well be necessary if the disaster escalates quickly.

Employment: The RAID Element is organized as an element under the peacetime control of the Adjutant General. Given its rapid response and assessment mission, the RAID Element is designed to assist incident commanders with the initial detection and the nature of the emergency. There is also a wartime RAID Element mission: to provide force protection support within the state during mobilization. As with the other elements of the response module, these elements can also be used as part of a federal (Title 10) response to support the National Military Strategy (NMS) requirements.

The RAIDs have the capability to rapidly deploy to an incident site and provide initial support to the Incident Commander. The element has the capability to conduct reconnaissance, provide medical advice and assistance, perform detection, assessment, and hazard prediction, and can provide technical advice concerning WMD incidents and agents. Equipping the RAIDs requires both military standard and commercial-off-the-shelf components. The equipment list can be found in Annex F.

Information and Planning Element

Mission: Collect, process and disseminate information about WMD emergency to facilitate the overall response activities. The scope of this functional element is to coordinate the overall information activities. Provide an initial assessment of disaster impacts including the identification of boundaries of the affected area and distribution, type and severity of damages, including the status of critical facilities. The information and planning activities are grouped among the following functions:

- Information Processing function to collect and process essential elements of information from the State, and other sources, disseminate it for operations, and provide input for reports, briefings, displays and plans;
- Reports function to consolidate information into reports and other materials to describe and document overall response activities and to keep follow-on support personnel informed of the status of the response operations;
- Displays function to maintain displays of pertinent information and facilitate briefings using maps, charts and status boards other means, such as computer bulletin boards or electronic mail, as available;
- Consolidate information to support the action planning process initiated by ICS.

Units Employed: Air Force Information Management staffs and Army Information Operations staffs.

Employment: When activated, this functional element will provide information processing support to military response activities. Information may be obtained from a variety of sources to include but not limited to ICS representatives. This functional element will proactively seek information that is a viable to develop an accurate picture of the emergency condition. The collection and processing of critical information is forwarded to the operational element in order to create an overall perspective of the situation. The release of information directly to the public or media remains a Public Affairs function. These elements deploy to an incident site between 8-72 hours after an incident to assist the Incident Commander.

NBC Reconnaissance Element

Mission: Provide NBC Reconnaissance Support to the local Incident Commander.

NBC reconnaissance operations include search, survey, surveillance, and sampling missions.

Search: Reconnaissance undertaken to obtain significant information about the NBC condition of routes, areas, and zones. This information confirms or denies the presence of NBC hazards with detection and identification equipment. Visual observation or the collection of samples in the specified location or region can also provide this information.

Surveys: Missions conducted to collect detailed information of NBC contamination hazards. The survey determines the type of contamination, the degree (extent/intensity), and the boundaries.

Surveillance: The systematic observation of an area to provide early warning.

Sampling: Provides physical evidence of NBC attacks and technical intelligence concerning NBC weapons systems.

Units Employed: Each National Guard and USAR Chemical Company will train a platoon-sized element to perform reconnaissance operations. (The Separate Brigade Chemical Platoons will also train to provide recon support.)

Employment: These elements should be prepared to deploy to an incident site after an incident to assist the incident commander to:

- Confirm or deny contaminated areas.

- Confirm the area is clear of contamination.

Units will operate primarily using standard MTOE and TDA equipment. Additional equipment requirements are attached (Annex F.)

NBC Patient Decontamination Element

Mission: Provide patient decontamination support to the local Incident Commander. Prepare to:

- Perform casualty decontamination near the incident site, prior to evacuation, or;
- Establish decontamination/detection stations at community hospitals.

Decontamination of non-ambulatory casualties is normally performed prior to evacuation. However, in a terrorist incident, many ambulatory casualties will self evacuate, arriving at the hospital still contaminated. Hospitals must have the capability to detect contamination, and decontaminate when necessary.

Casualty decontamination is done by trained non-medical personnel under the supervision of the medical personnel in accordance with procedures outlined in FM 8-10-7.

Units Employed: Each National Guard and USAR Chemical Company, and each Air National Guard and Air Force Reserve Medical Patient Decontamination Team will train platoon-sized elements to perform patient decontamination. (Separate Brigade Chemical Platoons will also train to provide decon support.) This training will be conducted during a weekend drill by the unit squad and platoon level leadership. A train-the-trainer program will be established and a program of instruction will be developed.

Employment: Each decontamination team will consist of twenty non-medical personnel and is capable of decontaminating 12 casualties per hour.

Three teams are required per decontamination site to run 24-hour operations (4 hours on and 8 hours off shifts).

This team requires three to five medical personnel from either the supported hospital/EMS or a medical unit to supervise the process and perform triage and immediate treatment of casualties. Equipment requirements are defined in Annex F.

NBC Medical Response Element

- The Medical Response Elements require further study and analysis. Noted below are the initial concepts for tasking and element employment. The ongoing medical studies must be considered before the DoD response plan is finalized. With many initiatives in various stages of fielding, a more detailed medical response element missions and tasks will be developed further during the first year of the program. The medical response plan requires coordination with our partners, in both the private and public sector.

Mission: Provide medical advice to incident commander and local authorities on protection of first responders and health care personnel in an NBC environment. Provide advice on casualty decontamination procedures, first aid and initial medical treatment. Provide medical threat information and characterize the health risks

to civilian and military populations. Provide initial medical advice to include signs, symptoms, and first aid.

Units Employed: NBC Medical elements consist of 6 medical personnel and is capable of providing medical advice to include signs, symptoms, and first aid of NBC agents. Teams consist of: 1 Preventative Medicine Officer, 1 Preventive Medicine NCO, 1 Acute Care Physician, 1 Nurse, 1 Preventive Medicine Science Officer, 1 Practical Nurse, 1 NBC NCO, 1 Nuclear Medical Science Officer, 1 Nuclear Medical Officer, 1 Nuclear Medicine Specialist/Health Physics Specialist.

Employment: After the initial assessment National Guard/Reserve Component NBC medical elements will provide periodic updates to the incident commander and local authorities on protection of first responders and health care personnel in an NBC environment. Elements may elect to use telemedicine reach back capabilities to provide medical advice to local hospitals on appropriate management of care issues. These elements deploy to an incident site between 8-72 hours after an incident to assist the Incident Commander.

Triage Medical Response Element

Mission: Provide triage support to the Incident Commander including the sorting and assignment of treatment priorities to various categories of wounded, and providing immediate emergency care.

Units Employed: Each National Guard, USAR, AFRES, USNR triage team will be trained to perform triage using the Simple Triage and Rapid Treatment (START) system and deploy to an incident site within 72 hours to assist the Incident Commander with a Mass Casualty Incident (MCI).

Employment: Each triage team will consist of 26 personnel and is capable of treating 100 patients per hour.

Trauma Medical Response Element

Mission: Provide expertise in triage, resuscitation, and damage control medicine near the incident site or at a definitive care location. Specific tasks are:

- Perform damage control surgery for up to four patients.
- Augment community hospital systems overwhelmed by NBC casualties.
- Augment hospital/Metropolitan Medical Strike Teams (MMST) after 24 hours to conduct sustainment operations.
- Provide support to local hospitals or MMST triage and immediate treatment of casualties.
- Provides Analgesia and anesthesia for patients under their care.

Units Employed: Each National Guard, USAR, and USNR, AFRES trauma team will be trained in the treatment of chemical, biological and radiological casualties and associated effects from blasts and crush injuries. Teams consist of: 2 General Surgeons, 1 Anesthesiologist, 1 Emergency Medical Physician/Orthopedic Surgeon, 1 Critical Care Nurse, 1 ER Nurse

Employment: These elements deploy to an incident site between 8-72 hours after an incident to assist the Incident Commander.

Preventive Medicine Element

Mission: Provides initial disease and environmental health threat assessments during early or continuing assistance stages of a disaster. Specific tasks are:

- Provide medical threat information and characterize the health risks to civilian and military populations.
- Prepare preventive medicine estimates; conduct rapid hazard sampling, monitoring and analysis.
- Sampling including endemic and epidemic disease indicators.
- Provide initial disease and environmental health threat assessments prior to or in the initial stages of a disaster.

Units Employed: Each National Guard, USAR, and Naval Reserve preventive medicine team will be trained in initial disease and environmental health threat assessments. Teams may require information from the Center for Disease Control and other agencies with endemic disease and environmental effect information to prepare their database for the area. Teams consist of: 1 Preventative Medicine Officer, 1 Industrial Hygienist/Health Physicist, 1 Environmental Science/Engineering, 1 Community Health Nurse, 1 Entomologist, 1 Biologist, 1 Preventive Medicine NCO. This team should attend the HHS/FEMA public health aspects of natural disasters and civil emergencies.

Employment: These elements deploy to an incident site between 8-72 hours after an incident to assist the Incident Commander. Personnel are alerted using pagers and deploy to incident site.

Stress Management Element

Mission: Provides initial stress management for military and civilian responder and incident survivors.

Units Employed: This element is highly trained in stress management and neuropsychiatry. It is capable of providing limited neuropsychiatric triage and stabilization of clinical cases in order to reduce the disabling effects associated with post traumatic stress disorder.

Personnel: Each NBC element will consist of 6 medical personnel and is capable of providing medical advice to include signs, symptoms, and first aid of NBC agents. Teams consist of: 1 Psychiatrist , 1 Clinical Psychologist, 1 Social Work Officer, 1 Psychiatric Nurse, 2 Mental Health NCOs, 1 Chaplain, 1 Occupational Therapy Officer, 1 Occupational Therapy NCO and require training victim assistance, psychological trauma, post traumatic stress disorder, mental health risks associated with relief workers (burn out syndrome) critical events management course.

Employment: These elements deploy to an incident site between 18 and 48 hours after an incident to assist the Incident Commander.

Security/Law Enforcement Element

Mission: The National Guard provides support for the Incident Commander IAW state and local emergency response plans to as-

sist in maintaining order, ensuring public safety and providing assistance to the law enforcement officials. Specific tasks and capabilities include:

Access Control: The potential for mass panic following a WMD incident will overwhelm the ability of hospitals to function effectively without additional personnel to control access to the facilities. National Guard troops could be called upon to augment law enforcement and hospital security personnel to maintain efficient access control in the hospitals. Because arriving victims may be contaminated, the personnel assigned this function require both awareness level knowledge and training in performing security operations in personal protective equipment (PPE). The units assigned this responsibility need ready access to PPE which allows for rapid mobilization from a local armory to an incident site.

Site Security: Once the limits of the contaminated area are established, a cordon will need to be established to prevent people from entering the area. Because this mission will be performed outside the hot zone and National Guard units regularly perform this type of mission in other disaster situations, no additional training beyond basic awareness will be required.

Civil Disturbances: The potential for lawlessness and disorder will exist following any WMD incident. Units designated with on-street civil disturbance missions need to have awareness level training on WMD incidents.

Quarantine: The National Guard could be called on to assist in the implementation of a quarantine if public health officials determine that a biological attack using a communicable disease agent occurs.

Evacuation: National Guard units will be required to assist in any evacuation ordered by the local officials. Military Police and other types of units may be called upon to assist in managing the flow of traffic during an evacuation. Because this mission will be performed outside the hot zone and National Guard units regularly perform this type of mission in other disaster situations, no additional training beyond basic awareness will be required.

Mass Care Elements

Mission: Provide support to the incident commander in providing shelter, feeding, emergency first aid, and bulk distribution of emergency relief supplies. Specific tasks and capabilities include:

Shelter: The provision of emergency shelter for disaster victims includes the use of pre-identified shelter sites in existing structures; creation of temporary facilities such as tent cities, or the temporary construction of shelters; and use of similar facilities outside the disaster-affected area, should evacuation be necessary. Military installations and facilities such as the armories and reserve centers can be used. The military can also be tasked to provide tentage, cots, etc. in the event of an incident.

Feeding: The provision for feeding disaster victims and emergency workers through a combination of fixed sites, mobile feeding units, and bulk food distribution. Such operations will be based on sound nutritional standards and will include provisions for meeting dietary requirements of disaster victims with special dietary needs.

Mobile kitchens and MAE's may be requested from the military to support mass feeding operations.

Emergency First Aid: Emergency first aid services will be provided to disaster victims and workers at mass care facilities and at designated sites within the disaster area. This emergency first aid service will be supplemental to emergency health and medical services established to meet the needs of disaster victims.

Bulk Distribution of Emergency Relief Items: Sites will be established within the affected area for distribution of emergency relief items. The bulk distribution of these relief items will be determined by the requirement to meet urgent needs of disaster victims for essential items. Military units can be tasked to man these operations.

Mortuary Affairs Element

Mission: Provide mortuary support to include identification, processing, storage, and disposition of remains following a mass casualty WMD incident. Specific tasks and capabilities include: assist in providing victim identification and mortuary services, temporary morgue facilities; victim identification utilizing latent fingerprint, forensic dental, and/or forensic pathology/anthropology methods; and processing, preparation, and disposition of remains.

Communications Element

Mission: This function is to assure the provision of telecommunications support to the response forces following a WMD emergency. This functional element coordinates actions to assure the provision of required telecommunications support. This functional element will coordinate the establishment of required temporary telecommunications. Support includes Government-furnished telecommunications, commercially leased communications, and telecommunications.

Units Employed: Tactical Army, Navy, and Air Force communications units may provide communications elements to link key command and control and deployed assets. Each NBC command element will consist of an information specialist.

Employment: These elements deploy to an incident site between 8-72 hours after an incident to assist the incident commander. Personnel are alerted using pagers and deploy to incident site. This functional element serves as a basis for planning and use of military telecommunications assets and resources in a WMD emergency.

Engineering Element

Mission: Public Works and Engineering support includes technical advice and evaluations, engineering services, construction management and inspection, emergency contracting, emergency repair of waste water and solid waste facilities, and real estate support for the stated purposes. The United States Army Corps of Engineers is the lead for this Emergency Support Function.

Specific tasks include:

Emergency clearance of debris for reconnaissance of the damage areas and passage of emergency personnel and equipment for lifesaving, life protecting, health and safety purposes during the initial response phase,

Temporary construction of emergency access routes which include damaged streets, roads, bridges, ports, waterways, airfields, and any other facilities necessary for passage of rescue personnel,

Emergency restoration of critical public services and facilities including supply of adequate amounts of potable water, temporary restoration of water supply systems, and the provision of water for fire fighting,

Emergency demolition or stabilization of damaged structures and facilities designated by State or local government as immediate hazards to the public health and safety, or as necessary to facilitate the accomplishment of life saving operations (undertake temporary protective measures to abate immediate hazards to the public for health and safety reasons until demolition is accomplished),

Technical assistance and damage assessment, including structural inspection of structures.

Units Employed: ARNG & USAR Engineer units and ANG/AFRES Civil Engineering units could be tasked.

Transportation Elements

Mission: Provide support for the incident commander (through the SCO or FCO/DCO) IAW state and local emergency response plans and the Federal Response Plan to satisfy the requirements of Federal agencies, State and local governmental entities, and voluntary organizations requiring transportation capacity (service, equipment, facilities, and systems) to perform their assigned WMD response missions.

Units Employed:

Air (Fixed): The Air Force (including ANG and AFRES) will be tasked to transport both civil and military response assets and elements to the site of an incident. Pilots and aircrews require awareness training.

Air assets may be tasked under the National Disaster Medical System to provide transport of patients (post-decontamination) to medical facilities around the nation. Pilots and aircrews require only an awareness level of training.

Air (Rotary): Military rotary wing assets will be critical to the operations of the other military response elements and in support of the local Incident Commander. Potential missions include:

Transport of the RAID: In order to meet a four-hour response window, many of the RAID's will be stationed at or near air units. Rapid activation of pilots and crews will be necessary. The RAID air liaison cell needs to coordinate with the supporting aviation element to ensure that adequate cargo capacity is available. The pilots and crews will require an awareness level of training.

Air Ambulance: The potential for mass casualties in a WMD incident will quickly overwhelm the hospital capacity in a local community. The use of aeromedical ambulance companies to transport patients to more distant treatment facilities can help to alleviate this problem. This transport capability is post decontamination and outside the hot zone. (Helicopters should not be used within a chemically contaminated area because their rotors tend to spread

agents/contamination.) Pilots and crews will therefore only require an awareness level of training.

Survey/Reconnaissance: Helicopters may be used to conduct an aerial reconnaissance of a radiologically contaminated area to determine the spread/level of contamination. Pilots need to receive training in the conduct of this type of operation.

Ground: Military vehicles such as military busses, HMMWV's, trucks, etc. can be operated in support of ESF#1 if not otherwise required to carry out the unit's emergency mission. Potential assets include transportation units that can be activated to provide additional transportation support. Only an awareness level of training will be required for those vehicles operating outside the hot zone. The assigned drivers of vehicles operating within the hot zone (such as ambulances) will require training on vehicle operations while wearing protective clothing.

USCG National Strike Force

The Coast Guard's National Strike Force's capabilities and responsibilities are available for responding beyond port areas. The Strike Teams are regularly deployed throughout the US on behalf of both USCG and EPA On-Scene Coordinators (OSCs). Further, the Strike Teams are key tactical response units for the EPA to call upon when responding under the Federal Response Plan Emergency Support Function #10. The potential exists that the Coast Guard OSCs could very well be the first Federal presence in a WMD scenario. Coast Guard OSCs have a pre-established response organization in coastal areas (including rivers and Great Lakes) with state and local responders as well as fire and police. USCG OSCs have experience coordinating support services (NOAA Scientific Support Coordinators, CDC, etc.) and other government agencies with response capabilities into a cohesive unified command.

CHAPTER 6: TRAINING REQUIREMENTS

TRAINING OVERVIEW

Training and exercises are the two key components of the overall training program. Achieving a level of enhanced readiness is directly linked to both. The challenge is to utilize the limited resources available during the development phases through a rigorous training and exercise program. Training must be conducted to ensure an efficient and effective response. Exercises offer an opportunity to practice response operations and to validate training preparations. Ultimately the real test will be when the first unit responds to an event—turning victims into patients, rather than collecting casualties for body bags.

This challenge is complicated by the fact that this effort is evolutionary. Instruction must focus on the unique aspects of a domestic WMD response. On the surface, responding to civilian casualties in a downtown metropolitan area would seem to have similar tasks that a soldier would perform when responding to a fellow member on the battlefield. The key difference is in the emergency operational environment. One is a wartime theater and the other is just as chaotic, just as lethal but CONUS based. Of course there is a

correlation to the individual tasks and the circumstances surrounding the event, the response and the associated functions the unit will perform when it arrives on scene. Yet, the specific conditions may vary greatly given the unique nature of a WMD attack in a CONUS setting. Performance based objectives will define the overall training needed for these teams to effectively respond.

Identification of the Performance Based Training Objectives for the first responder community has been an ongoing CBDCOM effort. This program should reap the benefits of that hard work by leveraging the already developed CBDCOM compendium of courses and program of instruction and then tailoring them to meet the training requirements of the state response teams. Orchestrating that effort will have to be accomplished by the program office. Concept development and rigorously exercising the response elements will help refine doctrine development. To meet the challenges of such an incident, an integrated training approach must be applied for both civilian and military personnel. Training for and response to a WMD incident is an interwoven process that must be viewed and analyzed as a total system.

In addition to leveraging CBDCOM's programs of instruction, a "Center for Excellence" should be established as the accrediting body to oversee WMD training to ensure a complete crosswalk between both civilian and military training. One solution would leverage the seven Institutional Training Division's TRADOC approved chemical training battalions and medical training brigades to support the Center for Excellence. Another solution could include expanding the current training base through the use of mobile training teams to satisfy training requirements. The program office needs to determine the cost reduction potential realized through innovative training technologies such as distance learning and interactive CD-ROM. Utilizing these capabilities could dramatically reduce the costs associated with training large numbers of military response elements. TRADOC schools and courses should integrate the Incident Command System, Civilian HAZMAT procedures and the Federal Response Plan into lesson plans and programs of instruction.

In addition, simulation exercises will provide city leaders, first responders and other federal partners a cost-effective method of testing current response procedures. In conjunction with training objectives, exercises can be tailored to individual city or state needs, allowing them to improve their process to meet specific training requirements.

INDIVIDUAL TRAINING

In particular, first responder training is viewed as the single most critical area for enhancing the nation's capability to respond to domestic terrorism. This training addresses the competence of skills needed to execute WMD response missions. There does exist a training gap between battlefield skills and the unique response skills required for civil WMD missions. In addition to providing individual training for the teams outlined in this plan, awareness training to the entire Reserve Component community will enhance our nation's overall response capability. Awareness training linked to ongoing unit training delivered using distance learning tech-

nology or via interactive CDROM capability provides low cost solutions with a high impact yield. Course material developed by CBDCOM for training first responders under the Nunn-Lugar-Domenici program is a readily available training source.

AWARENESS CHEMICAL BIOLOGICAL PLUS (ABC+) PROGRAM

Early detection, identification and notification of the emergency management system is essential to saving lives and mitigating the effects of a WMD event. Situational awareness, recognizing symptoms and effects, knowing what to do and who to call, is the theme of the ABC+ training program. During the first year of this integration program, a small cadre at each installation, reserve center and armory will receive the ABC+ training. ABC+ is based on the NBC awareness course currently being taught in the NLD City Training Program. In addition to the awareness training, key leaders and individuals will receive training in WMD emergency procedures. These procedures will also reinforce the proper techniques, protocols, and references that are essential to first responders. The intent is to answer questions that might be asked and provide an awareness of particular items to be alert to as the events develop during a WMD event. An ABC+ checklist will be provided that will guide the person through a series of questions that provide a profile of a potential WMD attack. ABC+ training will be provided on an interactive CD-ROM. At a minimum, full time National Guard and Reserve Component staff members need to complete the ABC+ training.

UNIT TRAINING

Preparing for a WMD response requires a focus on new and different tasks for some units. While many of these tasks are complementary to the unit's mission, some tasks have a new focus. Unit training builds on the individual skill proficiency to achieve unit domestic readiness. Rigorous training exercises are most appropriate for units with a WMD mission. These exercises require an understanding of the critical infrastructure nodes and emergency response protocols within the state and local communities to allow response units to refine "battle drill" techniques. The focus of unit training should provide immediate feedback to participants, which reinforces individual skills training. Also, measuring the effectiveness of completed training will identify areas that require further improvement. Unit NBC Defense Team's provide a WMD response capability as well. These teams are trained today for their military NBC mission and a basic orientation on the unique WMD tasks will be necessary. Annually, these defense teams exercise for their wartime mission, which is their primary orientation. With a minimum investment, a special training module could be developed that would provide a WMD track for the NBC Defense Teams. The Program will coordinate this initiative with the appropriate proponent school.

COURSE EVALUATION AND DEVELOPMENT

The timely evaluation of training courses and materials is critical to ensuring that course content is properly focused. In this way

emerging tactics, techniques, and procedures applicable to WMD responses will be made available to units.

EXERCISES

Exercises allow the teams, elements and units to practice for the WMD mission. A critical step in this process is learning the roles and responsibilities that individuals will assume should an actual incident occur. Exercises provide the opportunity to practice and develop skills as well as foster teamwork among responders and between agencies. Exercises ensure that a crisis is not the first opportunity for interagency coordination among responders. Lessons learned and opportunities to improve should be documented and shared with our interagency partners.

Exercises complement and enhance training activities. Since the Regional Training Brigades have the mission to conduct exercises using simulation, WMD scenarios can be developed for this capability.

TRAINING OBJECTIVE

The overarching training objective is to employ joint, interagency, and intergovernmental efforts to mitigate the effects of a WMD incident. The specific training objective may be broad or narrow in scope. A broad application of this training objective is focused on training interagency leaders and staffs in response management. A narrow application focuses on a specific sub-system not normally exercised by local emergency services such as planning decontamination of urban infrastructure assisting survivors, preventing additional casualties from chemical or radioactive agent drift, or restoration of public order.

SIMULATION EXERCISES

WMD Simulation Training Exercises (WMD SIMEX) will be conducted after initial training has been completed. The WMD SIMEX is a modified SPECTRUM or JANUS driven training event focusing on key leaders and response agencies. A CD-ROM and/or Internet based interactive computer-assisted training program with learner controls, practical exercises, and comprehensive assessments will be developed to support this program. The concept behind a WMD SIMEX is similar to the military's use of simulation training prior to field training exercises in order to maximize scarce operational dollars.

This methodology parallels the Army Battle Command Training Program. A read-ahead package made available provides selected materials appropriate to the training audience. Seminars bring interagency teams together to learn the process of reducing risk and mitigating the effects of a WMD attack. The exercise concludes with an Incident Command Post Exercise which brings interagency teams together in their actual operations centers to deal with issues, including fog and friction, generated by the separation in time and space from an event. The CBDCOM sponsored training provides a model for developing future training simulations.

REGIONAL TRAINING EXERCISE

This event brings all regional responders to a training incident and evaluates the entire response. The exercise is a joint, city, state, and federal effort. The leadership of these organizations should have completed a WMD SIMEX prior to a regional training exercise in order to maximize the benefit of the training event. Lessons learned will generate improvements in response.

A read-ahead package provides selected materials appropriate to the training audience. Civic leaders choose tasks they wish to exercise. Training scenarios will pull together the interagency team in a focused training exercise that allows them to operate together to reduce and mitigate the effects of a WMD. Through realistic execution the teams will test emergency response plans and coordination of responsibilities which will serve as the basis for formulating and testing alternatives to developing capabilities. Finally, an after action review process emphasizes lessons learned from and a take home packet provides direction for future interagency training events.

MODELING AND SIMULATIONS

Many elaborate simulation models and simulation tools have been developed for Major Theater Warfare scenarios using current Active and Reserve Component data. These models can be adapted to scenarios which impact the civilian populace at large. Data generated from these models can produce hazard effects, which would be useful identifying "hot zones", evacuation areas and safe areas. Custom reports generated from these databases could instantaneously identify units within the geographic proximity of an event by zip code. This will be helpful for identifying gaps in the existing capability. More important, it will facilitate decisions about fielding force structure that could be used to fill current force structure gaps.

Two agencies that provided invaluable help to the Tiger Team include the Concepts Analysis Agency and Defense Special Weapons Agency. Each organization has extensive experience in developing modeling and simulations for the Department of Defense. Furthermore, each organization has the technical expertise to assist the future efforts of the program office in many ways including doctrine and training development. Areas of interest for the program office include: determine WMD impact, number of casualties in a contaminated area, downwind hazard, areas to avoid and evacuate, neutralization procedures, analyze and determine tasks and their priority, and estimate response force size and composition.

When used properly, simulations and models can create the environment and stress needed for effective response options. Proper use ensures quality training that can compensate for fiscal constraints that limit live exercises. In addition, simulations and modeling efforts will provide leaders at all levels effective training alternatives.

NUNN-LUGAR-DOMENICI SUSTAINMENT TRAINING

The Senior Interagency Coordination Group Sustainment Training Process Action Team has recommended four Courses of Action

for providing training to first responders following the initial 120 cities:

1. Maintain the Domestic Preparedness Training Teams for the cities beyond the current mandate.
2. Use or expand the existing training infrastructure to include NBC models.
3. Enable the cities to train themselves.
4. Empower the states to execute sustainment training by providing them a menu of approved Domestic Preparedness training courses.

Their plan provides multiple options depending on funding availability. Integration of Reserve Component personnel into each of the courses of action could leverage the unique capabilities and geographic dispersion to provide a cost-effective training opportunity.

ANNEX A: ACRONYMS

ACTD Advanced Concepts Technology Demonstration
AFNSEP Air Force National Security Emergency Preparedness Office
AFRES Air Force Reserve
AMC Army Materiel Command
ANG Air National Guard
ARNG Army National Guard
ASA Assistant Secretary of the Army
ASD Assistant Secretary of Defense
BDRP Biological Defense Research Program
C2 Command and Control
CAM Chemical Agent Monitor
CB Chemical Biological
CB2010 Assessment of Chemical & Biological Agents on Joint Operations in 2010
CBDCOM Chemical Biological Defense Command
CBIRF Chemical Biological Initial Response Force
CBRRT Chemical & Biological Rapid Response Team
CDC Centers for Disease Control
CDRG Catastrophic Disaster Response Group
CINC Commander in Chief
Commo Communications
CONPLAN Contingency plan
CONUS Continental United States
CWC Chemical Weapons Convention
DCO Defense Coordinating Officer
Decon Decontamination
DIA Defense Intelligence Agency
DoD Department of Defense
DoDRDB Department of Defense Resources Database
DoE Department of Energy
DoJ Department of Justice
DOMS Director of Military Support
DoT Department of Transportation
DPP Domestic preparedness Program
DSB Defense Science Board
DSWA Defense Special Weapons Agency
EOD Explosive Ordnance Disposal

EPA Environmental Protection Agency
EPLO Emergency Preparedness Liaison Officer
ER Emergency Room
ERDEC Edgewood Research, Development and Engineering Center
ESF Emergency Support Function
FBI Federal Bureau of Investigation
FCO Federal Coordinating Officer
FEMA Federal Emergency Management Agency
FORSCOM Forces Command
FRP Federal Response Plan
GSA General Services Administration
HAZMAT Hazardous Materials
HQDA Headquarters Department of the Army
IAW In Accordance With
ICS Incident Command System
ILE Installations, Logistics & Environment
I-TRAP Interagency Terrorism Response Awareness Program
LFA Lead Federal Agency
MARS Mobile Analytical Response System
MMST Metropolitan Medical Strike Team
MRE Meal, Ready to Eat
MRMC Medical Research and Materiel Command
MSCA Military Support to Civilian Authorities
MTOE Modified Table of Organization and Equipment
MTW Major Theater War
NBC Nuclear Biological Chemical
NC&B Nuclear, Chemical & Biological
NCO Non Commissioned Officer
NCS National Communications System
NDP National Defense panel
NG National Guard
NGA National Governors' Association
NGB National Guard Bureau
NICI National Interagency Counterdrug Institute
NLD Nunn-Lugar Domenici
NMRI Naval Medical Research Institute
NRC National Response Center
OCAR Office, Chief of the Army Reserve
OCONUS Outside of the Continental United States
P.L. Public Law
PAT Process Action Team
PC Personal Computer
PDD Presidential Decision Directive
PHS Public Health Service
PPE Personal Protective Equipment
PSRC Presidential Selected Reserve Call-up
QDR Quadrennial Defense Review
RA Reserve Affairs
RAID Rapid Assessment and Initial Detection
RC Reserve Component
Recon Reconnaissance
RTF Response Task Force
SCO State Coordinating Officer
SECARMY Secretary of the Army

SECDEF Secretary of Defense
SICG Senior Interagency Coordination Group
STARC State Area Command
TAG The Adjutant General
TDA Table of Distribution of Allowances
TEU Technical Escort Unit
USACE United States Army Corps of Engineers
USACOM United States Atlantic Command
USAMRICD United States Army Medical Research Institute for Chemical Defense
USAMRIID United States Army Medical Research Institute of Infectious Disease
USAR United States Army Reserve
USCG United States Coast Guard
USDA United States Department of Agriculture
USMCRC United States Marine Corps Reserve Component
USNR United States Naval Reserve
VA Department of Veterans Affairs
WMD Weapons of Mass Destruction

ANNEX B: REFERENCES

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Title 10 Sections 12301-12304 Reserve Components
Title 50 Appendix 2251- 2303 Civil Defense Act
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Title 10 Sections 331-335 Insurrection Act
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Defense Reform Initiative Report, William S. Cohen, November 97.
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GAO Report (GAO/NSIA-97-254) Combating Terrorism: Federal Agencies Effort to Implement National Policy and Strategy.
FEMA, Focus Group Report: NBC Terrorism Response Focus Group For Local Government, 29 October 97.

ANNEX D: STUDIES AND ANALYSES

1. Department of Defense Report to Congress: Domestic Preparedness Program in the Defense Against Weapons of Mass Destruction (1 May 1997).

2. An Assessment of Federal Consequence Management Capabilities for Response to Nuclear, Biological or Chemical (NBC) Terrorism - A Report to the President in coordination with the Catastrophic Disaster Response Group (February 1997).

3. Chem-Bio 2010: Assessment of the impact of Chem/Bio Weapons on Joint Operations in 2010 (Joint Staff - September 1997).

4. The Role of the National Guard in Emergency Preparedness and Response for the United States Congress and Federal Emergency Management Agency (January 1997).

5. Defense Science Board: DoD Responses to Transnational Threats (August 1997).

6. Proliferation: Threat and Response. Office of the Secretary of Defense (November 1997).

7. Report of the National Defense Panel: Transforming Defense National Security for the 21st Century (December 1997).

8. NBC Terrorism Response Focus Group for Local Government Report (October 1996).

9. National Governor's Association Workshop with Interagency Partners (FEMA, DoD, EPA, FBI, DHHS and DVA) (September 1996).

Twenty six states participated in assessing capabilities to respond to and manage the consequences of nuclear, biological, or chemical (NBC) terrorism. These 26 states were chosen because their large urban areas and other factors could make them potential targets for a terrorist incident.

10. FEMA—September 1996

During September 1996, FEMA met with representatives from Boston, MA; Denver, CO; Los Angeles, CA; and Philadelphia, PA. They focused on the capabilities and needs of local government to respond to terrorist incidents involving WMD. Input and feedback from this sampling of U.S. metropolitan areas was intended to provide an indication of the spectrum of nationwide preparedness at the local level. Participants primarily represented emergency response and public health organizations from the respective state and local governments. Policy and subject matter experts included Federal officials from FEMA, the FBI, DHHS, and DoD.

Overall, the group consensus was that the local preparedness for response to WMD terrorist incidents is nominal. To the extent that hazardous material preparedness applies to the NBC arena, some base level exists. However, a great deal of progress remains to be made on resource, planning, and training fronts regarding the unique nature of NBC terrorist incidents.

11. FEMA/FBI Report to Congress (January 1997).

FEMA and FBI submitted a Joint Report to Congress in January 1997. It addressed both crisis management/prevention and con-

sequence management/response activities. This report focused on capabilities and interagency roles and responsibilities to respond to an incident involving WMD. In the assessment summary, the impact of a WMD incident and significant response requirement were recognized.

A NBC terrorist incident may occur as a local event with potentially profound national implications. In responding to a NBC incident, first responders must be able to provide critical resources within minutes to mitigate the effects of the incident. Since the ability of the local government to deal with the immediate effects of an incident is essential to the success of any NBC response, enhancing and maintaining the local capability with trained and adequately equipped responders is a key component of a viable national terrorism response capability.

12. DoD Focus Group Meetings (February 1997).

DoD, with the support of other Federal agencies, conducted a series of focus group meetings with first responders during February 1997. The findings and recommendations of the groups formed the basis of a comprehensive set of training performance objectives. Based upon the focus group's review, a training course development program was begun to modify existing training courses, and develop programs of instruction and instructional material.

13. DoD/DoE Report to Congress (April 1996).

DoD and DoE, in consultation with FEMA, submitted a report to Congress in 1996 on current plans, resources, and capabilities to respond to a nuclear, radiological, biological, or chemical terrorist attack. The report covered consequence management plans and capabilities. Key points made were, first, there is a fundamental shift from the local or regional level of Federal involvement and decision-making authority to Washington, DC and the SECDEF's personal involvement during a WMD domestic terrorist incident. Second, there are some highly trained personnel available and excellent capabilities in many consequence management organizations to respond to a domestic NBC disaster. Finally, first responders need training, equipment, and supplies, yet there are limited quantities of DoD combat supplies available for NBC contingencies.

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ANNEX G: LEGAL ISSUES

PLANNING PRINCIPLES

As mentioned in Chapter 1, the team selected the Federal mission as the principle to guide the organization of the response elements. Under this organizing principle, the immediate response elements act as the tip of the Federal MSCA spear. It is anticipated the initial WMD response would be in a State status, under the control of the Governor. Since the unit's outlined in this plan remain DoD assets, the unit's force structure would also be available to support the homeland defense and MSCA missions, and provide a secondary warfighting capability.

CURRENT LEGISLATIVE INITIATIVES

Status of full time personnel: The team analyzed a number of options regarding the status of full time personnel. These included: state active duty (SAD), full time National Guard duty for special work (Title 32), full time Active Guard and Reserve duty (AGR)(Title 32) and active duty for special work (Title 10). The team recommends full time Active Guard and Reserve duty (AGR)(Title 32), for National Guard personnel. This status best enables the personnel to perform required missions within the envisioned command and control structure and with federal military personnel benefits. This status provides a career track for soldiers who will be highly skilled and in high demand. A change to current statutes covering Title 32 is necessary since the WMD mission is operational in nature. The specific language has been included in the fast-track legislative package being staffed separate from this plan.

Stafford Act Amendments: The team also recommends amending provisions of the Stafford Disaster Assistance Act that concern Federal and State disaster preparedness programs and disaster response, to include WMD incidents within the definition of a disaster under the act and to authorize the use of the National Guard (as defined in section (101)(3) of Title 32) or the reserve components (as named in Section 10101 of Title 10) "to take such actions that may be necessary to provide an immediate response to a disaster involving a weapon of mass destruction" (as that term is defined in Section 102 of the Act, as it would be amended). The act would also be amended to also require that DoD be reimbursed for any expenses incurred by the department for disaster preparedness programs conducted by the National Guard or the reserve Components from funds "appropriated for the purposes of the Act" and to authorize the Secretary of Defense, at the request of the Director of FEMA, to direct the National Guard and Reserve Components to conduct training exercises, preposition equipment and other items, and to take such other actions that may be necessary to provide an immediate response to an incident involving a weapon of mass destruction (as that term is defined in Section 102 of the Act, as it would be amended). The Department of Defense would be reimbursed with funds made available for the purposes of disaster relief. These changes facilitate use of the reserve component in WMD response under the Stafford Act.

FAST TRACK LEGISLATION

As mentioned previously in this document, WMD response activity will be quite different. In fact, federal resources may be required much earlier than during a typical disaster response. Given this potential, access to federal resources takes on a new and perhaps even demanding dimension. With quick access in mind, now is the time to work the accessibility issues, not after an event has occurred. Both have unique features but it appears that at a minimum, the amendment to 10 USC 12301(b) deserves favorable consideration. The 10 USC 12304 amendment addresses access but extends the current PSRC authority to WMD related incidents. The nature of just these amendments is an example of the issues re-

quiring attention. More work remains necessary. Perhaps, in the end, a new status covering operational missions will be most appropriate for the type duty outlined in this plan. The two categories for consideration are listed below:

1. Extension of Involuntary Call-up Authority to 30 Days: Amendment to 10 USC 12301(b). That section currently authorizes the Secretary of a military department to order, without the consent of the persons affected, any unit, and any member not assigned to a unit organized to serve as a unit, in an active status in a reserve component under the jurisdiction of the Secretary to active duty for not more than 15 days a year. This amendment would increase a period of active duty from 15 to 30 days a year. This authority would enable the military departments to initially respond more effectively to a domestic incident involving a weapon of mass destruction and to make members of the ready reserve more readily available to participate in other operational missions.

2. Enhanced access to the Reserve Components: Amendment to 10 USC 12304(b) concerning the authority of the President to authorize the Secretary of Defense to order members of the Selective Reserve to active duty not in time of war or during a national emergency declared by Congress and amendments to the Stafford Act to authorize and facilitate DoD preparation for and response in WMD consequence management situations. Currently, Section 12304(b) prohibits such an order to active duty "to provide assistance to either the Federal Government or a State in time of a serious natural or manmade disaster, accident, or catastrophe." The amendment inserts a very limited exception to section 12304(b) that would allow a unit or member to be ordered to active duty to provide assistance in responding to an emergency involving a "weapon of mass destruction."

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b. Combating Terrorism: Status of DOD Efforts to Protect Its Force Overseas (Letter Report, July 21, 1997, GAO/NSIAD–97–207).[1]

GAO reviewed the Department of Defense's (DOD) efforts to protect U.S. forces from terrorist attacks, focusing on: (1) measures taken at overseas U.S. bases to enhance the security of deployed personnel; and (2) recent DOD initiatives to improve its antiterrorism program.

GAO reviewed that: (1) many deployed U.S. forces are better protected today from terrorist attacks similar to the one that occurred at Khobar Towers; (2) during March and April 1997, GAO visited 30 overseas sites and found that security improvements were most evident where the risk of terrorism is the greatest, such as Turkey and the Middle East; (3) DOD has placed less emphasis on addressing vulnerabilities in countries that are currently considered to have a lower threat; (4) senior military commanders and defense officials GAO met with emphasized that they can reduce, but not eliminate, vulnerabilities and that further terrorist attacks against U.S. forces should be expected; (5) they also observed that efforts to defend against terrorism are complicated by a number of factors, including the ability of terrorists to decide where and when to attack and to choose from a wide selection of targets; (6) nevertheless, the officials said, some risk must be accepted as the United States pursues its national security strategy abroad; (7) since the bombing at Khobar Towers, DOD has initiated a number of changes aimed at improving its antiterrorism program; (8) for example, DOD has established a new office for combating terrorism on the Joint Staff, enhanced the antiterrorism responsibilities of the geographic combatant commands, and instituted a vulnerability assessment process under the aegis of the joint staff; (9) these initiatives, however, have not resulted in a comprehensive, consistent approach to antiterrorism as called for by the Downing task force; (10) for instance, DOD's force protection focal point has not provided the geographic combatant commanders the guidance the commanders believe they need to carry out their expanded antiterrorism responsibilities; (11) such guidance would include establishing standards for assessing vulnerabilities and agencywide physical security requirements designed to provide a minimum level of protection to U.S. forces no matter where they are located; (12) a comprehensive, consistent approach to antiterrorism using common standards would give commanders a more objective basis for determining whether they are providing adequate protection to their facilities and personnel; and (13) DOD would have a capability to compare vulnerabilities at different sites on a worldwide basis and thus ensure that sufficient emphasis is being placed on the most vulnerable areas.

[1] Source: http://www.securitymanagement.com/library/gaodod.txt.

c. Domestic Preparedness Program in the Defense Against Weapons of Mass Destruction, May 1, 1997.[1]

EXECUTIVE SUMMARY

This report summarizes the Department of Defense (DoD) actions as requested by Public Law 104–201, National Defense Authorization Act for Fiscal Year 1997, Title XIV: Defense Against Weapons of Mass Destruction (WMD), Subtitle A: Domestic Preparedness. The Conference Report accompanying Public Law 104–208 Omnibus Consolidated Appropriations Act, 1997, requested DoD to submit a report to Congress by May 1, 1997 on four specific issues: assess the types and characteristics of chemical and biological threats; identify unmet training, equipment and other requirements for first responders; identify chemical/biological warfare information, expertise and equipment that could be adapted to civilian application; and present a detailed plan for DoD assistance in equipping, training and providing other necessary assistance for first responders to such incidents.

A threat assessment has been prepared and is contained in Volume II of this report. It assesses the types and characteristics of chemical and biological threats against U.S. citizens and Government assets in the United States.

Over the past few years, several studies, discussions, workgroups, and focus groups have identified capabilities, specific requirements and shortfalls in requirements that are needed by first responders to meet the threat of a chemical, biological or nuclear terrorist attack. The findings of these studies and workgroups show a common trend in unmet training, equipment, and other resources, such as technical information for first responders.

The DoD is using existing interagency programs as the foundation to build links between these programs and initiatives outlined in Title XIV. These programs include a nationwide training support plan with an initial focus on 27 cities. Modular training courses will then be available to other cities throughout the nation. Through the Helpline in non-emergency, and the Hotline in emergency situations, first responders will have access to DoD chemical/biological agent/warfare information and technical expertise to enhance their preparedness. Local Metropolitan Medical Strike Teams and their supporting systems are being geographically developed to respond to medical consequence management issues related to NBC terrorism. A Chemical-Biological Quick Response Force has been developed for rapid deployment to detect, neutralize, contain, dismantle, and dispose of Weapons of Mass Destruction (WMD). Operational control of committed response forces will be provided by two geographically located Response Task

[1] Source: http://www.defenselink.mil/pubs/domestic/.

Forces. Other Federal departments and agencies are enhancing their response capabilities. Lessons learned from completed exercises will be applied to developing exercises/tests to be executed in the next five successive fiscal years to improve the response of Federal, state, and local agencies to emergencies involving WMD incidents.

All programs and initiatives outlined within this report are supported by congressional legislation. The overall success is dependent upon combined cooperation of all Federal agencies participating in efforts related to domestic preparedness for WMD. The key to success, however, is continued funding through the outyears to ensure that all agencies, local, state, regional and Federal, are adequately prepared to respond to a WMD terrorist attack.

VOLUMES 1–6

1. INTRODUCTION

This report summarizes the Department of Defense (DoD) actions as requested by Public Law 104–201, National Defense Authorization Act for Fiscal Year 1997, Title XIV: Defense Against Weapons of Mass Destruction (WMD), Subtitle A: Domestic Preparedness. The Conference Report accompanying Public Law 104–208 Omnibus Consolidated Appropriations Act, 1997, requested DoD to submit a report to Congress on four specific issues that are outlined in the Scope of the Report.

1.1 Background

Within the last five years at least eleven states as well as other nations have experienced terrorist incidents. Some of the most widely publicized incidents were the bombing of the World Trade Center in 1993, the chemical terrorist attack on the Tokyo Subway system in 1995, the bombing of the Alfred P. Murrah Federal Building in Oklahoma City in 1995, and the Centennial Park bombing in Atlanta in 1996. With the increasing availability of raw materials and technology from worldwide sources, the potential use of WMD by subversive groups has mounted dramatically. In response to the growing concern of the potential use of WMD in a terrorist attack, Title XIV was established.

1.2 Responsibilities

Under Title XIV, Subtitle A, Domestic Preparedness, responsibilities for oversight and execution are as follows. The Assistant Secretary of Defense (Special Operations/Low Intensity Conflict) has responsibility for policy and resource oversight. The Assistant to The Secretary of Defense (Nuclear, Chemical & Biological Defense Programs) provides resource oversight for equipment procurement. Additionally, in accordance with Section 1413, Title XIV, the Secretary of Defense (SECDEF) designated the Secretary of the Army (SECARMY) to serve as the Executive Agent for the coordination of DoD training assistance to Federal, state, and local officials to better assist them in responding to threats involving chemical and biological weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of biological and chemical weapons and related materials and tech-

nologies. As the Executive Agent, the Secretary is responsible for developing the planning guidance, plans, implementation, and procedures for the Domestic Preparedness Program. The SECARMY subsequently named the Assistant Secretary of the Army (Installations, Logistics and Environment) (ASA(IL&E)) as the focal point for all matters in which the Army has executive agency, and the Director of Military Support (DOMS) as the DoD staff action agent. In a separate directive, the SECARMY directed the Commander, Army Materiel Command (AMC) to appoint a DoD Program Director. AMC subsequently directed Commander, Chemical Biological Defense Command (CBDCOM) to appoint a DoD Program Director with the primary responsibility to implement the basic elements of Title XIV.

The Senior Interagency Coordination Group (SICG) on Terrorism was established to facilitate the interagency coordination of policy issues and program activities in support of Federal initiatives to assist Federal, state, and local first responders in responding to WMD incidents. The SICG is composed of senior members from DoD, the Federal Emergency Management Agency (FEMA), the Federal Bureau of Investigation (FBI), the Public Health Service (PHS), the Environmental Protection Agency (EPA), the Department of Energy (DoE), the Department of Justice (DoJ), the Department of Transportation (DoT), United States Department of Agriculture (USDA), General Services Administration (GSA), and the National Communications System (NCS).

1.3 Scope of the Report

This report responds to four issues outlined by Congress. The report will assess the types and characteristics of chemical and biological threats against the U.S. and the capabilities of civilian agencies to respond to these threats; identify unmet training, equipment, and other requirements of civilian first responders necessary to provide a basic capability to respond to domestic chemical and biological attacks; identify DoD chemical/biological warfare information, expertise and equipment that could be adapted to civilian application to help meet identified requirements; and present a detailed plan for DoD assistance in equipping, training, and providing other necessary assistance for first responders to such incidents.

This report provides information to Congress on the status of the existing programs and initiatives required to enhance Federal, state, and local capabilities to respond to terrorist incidents involving WMD. The overall initiative uses existing Federal agencies' chemical and biological assets and programs as the foundation for its program. The SICG members are building links between participating agencies to develop new programs to ensure that the intent of Congress is met as outlined in Title XIV and subsequent legislation. The DoD initiative is an evolving program. This report will provide information on the status of the individual components of the DoD program and plan. Volume I of this report is unclassified. Volume II provides an assessment which is classified SECRET US ONLY.

2. TYPES AND CHARACTERISTICS OF CHEMICAL AND BIOLOGICAL THREATS AGAINST U.S. CITIZENS AND GOVERNMENT ASSETS IN THE U.S. AND THE CAPABILITY OF CIVILIAN AGENCIES TO RESPOND TO THESE THREATS

This portion of the Report to Congress is contained in Domestic Preparedness Program, Volume II: Assessment of the Chemical and Biological Transnational Terrorist Threat in the Continental United States (U). The assessment is classified SECRET US ONLY.

3. UNMET TRAINING, EQUIPMENT, AND OTHER REQUIREMENTS OF CIVILIAN FIRST RESPONDERS NECESSARY TO PROVIDE BASIC CAPABILITY TO RESPOND TO A DOMESTIC CHEMICAL OR BIOLOGICAL ATTACK

3.1 Introduction

Several Federal agencies have conducted studies and focus group discussions with different local, state, and regional representatives over the past several years in an attempt to determine the needs of first responders in the event of a WMD incident. These studies focused on areas such as plans, capabilities, procedures, training, equipping and response integration at different levels. The findings from several of the studies/discussions are summarized below.

3.2 Studies

3.2.1 National Governors Association - September 1996

In September 1996 the National Governors Association (NGA) conducted a workshop for the NGA policy advisors with representatives from FEMA, DoD, DoE, EPA, FBI, Department of Health and Human Services (DHHS), and the Department of Veterans Affairs (VA). The workshop sought to 1) identify the nature, impact, and response issues associated with a nuclear, biological or chemical terrorist incident; 2) discuss the adequacy of both Federal and state plans and response capabilities to an incident involving mass casualties; and 3) formulate the next steps for developing a coordinated Federal, state, and local response framework.

In preparation for the workshop, NGA conducted a survey of the 26 participating states to assess the capabilities of these states to respond to and manage the consequences of nuclear, biological, or chemical (NBC) terrorism. These 26 states were chosen because their large urban areas and other factors could make them potential targets for a terrorist incident.

Most states acknowledged they receive satisfactory intelligence about potential terrorist groups operating in their state and could adequately respond to a nuclear terrorist attack due to their planning and training for possible nuclear power plant accidents. However, in the arena of chemical and biological terrorism, the states felt they were not adequately resourced or trained. The NGA findings indicate a need for more information on the types of resources available to combat chemical or biological attacks and indicated a need for Federal assistance in areas of monitoring and detection equipment, technical assistance, manpower, and recovery efforts. FEMA recommended holding regional meetings to review resources

and discuss issues of mutual concern between the Federal and state governments.

First responder issues focused on the states capabilities to respond to an NBC terrorist incident, recognizing that first responders are essentially on their own for the first six to ten hours after an incident has occurred. Participants discussed resources the Federal government could provide and the role of Federal agencies during the early stages of the crisis; leveraging existing capabilities and expertise; improving interaction between emergency management organizations and first responders; acquiring low cost NBC equipment and protective clothing; improving decontamination capabilities; conducting specialized training; and providing opportunities for partnerships with industry to advance current expertise and develop tools and techniques.

Public information issues explained the need to present fully coordinated, timely, and accurate emergency information to the public and the importance of considering the objectives in consequence management versus crisis management.

Law enforcement and intelligence issues centered on the collection, analysis, production, and dissemination of terrorist intelligence information between state and Federal agencies. Participants also addressed public safety issues and agency roles regarding the responsibility for maintaining order and discipline during and after an incident.

Health and medical service issues focused on the states capabilities and capacities, and the type and quantity of assistance available from the Federal government.

When discussing how the states and Federal agencies could best work together on the issue of NBC terrorism, most states suggested that FEMA should hold regional meetings. To develop a coordinated framework for states and Federal agencies to work together, FEMA proposed the following: imitate the Federal Response Plan (FRP) review process at the state level; host a series of workshops at the regional level; establish a national information clearinghouse; visit/assist each reviewing state; pool Federal and state capabilities data; develop a national plan outlining state and Federal responsibilities, priorities, and approaches to develop/sustain capability; secure state and Federal funding support; and implement a multi-year plan.

3.2.2 FEMA—September 1996

During September 1996 FEMA met with representatives from Boston, MA; Denver, CO; Los Angeles, CA; and Philadelphia, PA. They focused on the capabilities and needs of local government to respond to terrorist incidents involving WMD. Input and feedback from this sampling of U.S. metropolitan areas was intended to provide an indication of the spectrum of nationwide preparedness at the local level. Participants primarily represented emergency response and public health organizations from the respective state and local governments. Policy and subject matter experts included Federal officials from FEMA, the FBI, DHHS, and DoD.

Four concurrent sessions were held to discuss the local response to terrorism scenarios involving NBC incidents tailored to reflect specifics of each city's jurisdiction. A surprising number of common

response issues were identified among the four different types of incidents.

Participants believed that local government had the ability to meet normal emergency response needs: performing the fire-fighting, law enforcement, emergency medical services and rescue tasks they do so effectively on a day-to-day basis. In addition, some personal protective equipment and some hazardous materials response equipment is generally in place at the local level and would be available to respond to a very small WMD incident. However, they identified a critical need for access to information and expert advice as well as training. They also thought that local government was ready, willing and able to do more with the proper training and equipment.

The groups highlighted the need for subject matter experts to be identified and available within the first few hours of an incident. These subject matter experts would provide advice and reference materials describing the hazards, the effects and recommended protective response actions.

Beyond technical experts, personnel resources would be required by local governments to assist with the potentially massive public impacts of such incidents - whether it be mass casualties or large-scale evacuation. National Guard (NG), state police, and additional fire and emergency medical personnel from outlying municipalities were noted as probable sources to meet these needs. The cities indicated that in many cases mutual aid agreements were in place to obtain resources from neighboring communities. In other cases, they recognized the need for such agreements and that this was a local responsibility.

The need for hazard-specific procedures was uniformly supported. Local responders do not have enough knowledge of the requirements for response to NBC threats to develop their own procedures. Guidance from state and Federal experts is needed on procedures to monitor, treat, protect and decontaminate after release of NBC contaminants.

Participants highlighted training as a key component in building local, state, and Federal response capabilities. First responders need awareness training specific to NBC hazards so that they could quickly recognize victim symptoms and other characteristics of such an incident which may distinguish them from other hazardous material incidents. Participants also felt that first responders needed training on routes of exposure, means of protection, health effects, treatment and monitoring, and decontamination methods. Training on handling of mass casualties and on the requirements of triage was also highlighted as a need for the emergency medical community.

Multi-jurisdictional exercises were noted by the groups as another critical element of the preparedness program that was currently missing. They felt that local plans and procedures were evaluated on a frequent basis, but that opportunities to test integration and coordination with state and Federal agencies were lacking. The groups encouraged the Federal government to promote more full-scale integrated exercises.

Overall, the group consensus was that the local preparedness for response to WMD terrorist incidents is nominal. To the extent that

hazardous material preparedness applies to the NBC arena, some base level exists. However, a great deal of progress remains to be made on resource, planning, and training fronts regarding the unique nature of NBC terrorist incidents.

3.2.3 FEMA/FBI - January 1997

FEMA and FBI submitted a Joint Report to Congress in January 1997. It addressed both crisis management/prevention and consequence management/response activities. This report focused on capabilities and interagency roles and responsibilities to respond to an incident involving WMD. In the assessment summary, the impact of a WMD incident and significant response requirement were recognized.

A NBC terrorist incident may occur as a local event with potentially profound national implications. In responding to a NBC incident, first responders must be able to provide critical resources within minutes to mitigate the effects of the incident. Since the ability of the local government to deal with the immediate effects of an incident is essential to the success of any NBC response, enhancing and maintaining the local capability with trained and adequately equipped responders is a key component of a viable national terrorism response capability.

While the assessment of the FRP and Federal capabilities found some deficiencies, it also identified several current capabilities being expanded to ensure a more viable national level NBC response capability. Current initiatives for supplementing existing plans, enhancing operational response capabilities, and increasing the availability of training are ongoing. These new efforts, coupled with ongoing preparedness efforts, will facilitate a better coordinated and more effective response by local, state, and Federal governments to the consequences of domestic NBC terrorist incidents.

3.2.4 DoD—February 1997

DoD, with the support of other Federal agencies, conducted a series of focus group meetings with first responders during February 1997. The findings and recommendations of the groups formed the basis of a comprehensive set of training performance objectives (Annex A). Based upon the focus groups review, a training course development program was begun to modify existing training courses, and develop programs of instruction and instructional material.

3.2.5 DoD/DoE—April 1996

DoD and DoE, in consultation with FEMA, submitted a report to Congress in 1996 on current plans, resources, and capabilities to respond to a nuclear, radiological, biological, or chemical terrorist attack. The report covered consequence management plans and capabilities. Key points made were, first, there is a fundamental shift from the local or regional level of Federal involvement and decision-making authority to Washington, DC and the SECDEF's personal involvement during a WMD domestic terrorist incident. Second, there are some highly trained personnel available and excellent capabilities in many consequence management organizations to respond to a domestic NBC disaster. Finally, first responders

need training, equipment, and supplies, yet there are limited quantities of DoD combat supplies available for NBC contingencies.

The shift in the level of involvement was due to recognizing the mass casualties, physical damage, and potential for civil disorder resulting from a WMD detonation. Simply stated, a terrorist use or potential use of a WMD is considered a vital threat to the national security of the United States.

The interagency community found that including consequence management experts from the very beginning of a crisis management response was absolutely essential for minimizing casualties, reducing public panic, and ensuring a rapid Federal response to state and local communities. The interagency counterterrorism community has also taken steps to include senior policy decision-makers for consequence management in their Washington deliberations on crisis management.

The FRP, involving 28 departments and agencies, provides a framework for response to most natural and manmade domestic civil emergencies. A recently published Terrorism Annex to the FRP, addresses how the various agencies, including DoD, would respond to a domestic NBC disaster. While DoD, DoE and other Federal agencies currently have some very highly trained and well equipped teams available to respond to such an event, NBC response personnel and equipment are limited compared to the potential threat. The Federal response community continues to work together to increase their capabilities but there is still much room for improvement.

This report recognizes that state and local authorities, as first responders, are in need of their own NBC equipment and supplies, and greater access to up-to-date NBC training. DoD has an inventory of combat supplies for NBC contingencies, but in many cases this equipment is not suitable for civilian use during a terrorist incident. Additionally, the use of DoD stockpiles of NBC supplies and materials for domestic emergencies will have a direct adverse impact on military readiness and force protection.

3.3 Summary

DoD has extensively used the findings of these studies and reports to formulate the Domestic Preparedness Program. The specific elements of the program are discussed in Section 5. The ongoing program of activities in FY 97 encompassing planning and guidance development, training and exercises, and capability enhancement involving Federal, state, and local governments will improve the current levels of preparedness and response.

4. DOD CHEMICAL/BIOLOGICAL WARFARE INFORMATION, EXPERTISE, AND EQUIPMENT THAT COULD BE ADAPTED TO CIVILIAN APPLICATIONS TO MEET IDENTIFIED REQUIREMENTS.

4.1 Information and Expertise

DoD and other Federal agencies routinely provide support to first responders at the local, state, and Federal level in the form of expert advice and assistance. A major source of the information comes from a vast knowledge base at CBDCOM and the Medical Research and Materiel Command (MRMC). The Defense Technical

Response Group, part of the Naval Explosive Ordnance Disposal (EOD) Technical Division, is a joint-service manager for explosive ordnance disposal. Finally, the 52nd Ordnance Group can be called upon for OD assistance. Specially trained EOD operators in DoD special mission units are the primary experts to be called upon by the FBI for access and device disablement operations involving weapons of mass destruction.

The current process used to identify and link up first responders and technical expertise is somewhat cumbersome. The initiative of establishing a Helpline and a Hotline focuses on streamlining the process so first responders know how to obtain information in both non-emergency and emergency situations.

4.2 Equipment

An annual report to Congress entitled "Department of Defense Nuclear/ Biological/Chemical (NBC) Warfare Defense" submitted as required by Section 1703 of the National Defense Authorization Act for Fiscal Year 1994 documents quantities, characteristics, and capabilities of fielded chemical and biological defense equipment which would be used in an NBC combat scenario. Although DoD does have a program for loaning equipment to civilian agencies, personal protective equipment such as the mask or protective suit, if adapted for civilian use, would require National Institute For Occupational Safety and Health or National Fire Protection Association approval.

Equipment currently used by chemical depot workers is listed in Department of the Army Pam 385–61, Toxic Chemical Agent Safety Standards. However, commercial protective equipment alternatives have been tested and are currently in use at many locations. A program will begin in 4th Quarter of FY 97 to evaluate and test additional commercial protective equipment in a chemical agent environment in order to provide a much larger database on commercially available equipment. The test results will be available for use by the local, state, and Federal agencies as they go through the decision-making process in selecting various items of protective equipment for their use.

5. DOD PLAN FOR ASSISTANCE IN EQUIPPING, TRAINING, AND PROVIDING OTHER NECESSARY ASSISTANCE FOR FIRST RESPONDERS TO INCIDENTS

5.1 General

5.1.1 Program Intent

Under Title XIV, Congress directed a program to enhance the capability of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction, and provide enhanced support to improve the capabilities of state and local emergency response agencies to prevent and respond to such incidents at both the national and the local level. DoD will implement the necessary training and assistance programs, but intends to transition this responsibility to other agencies after FY 1999 as allowed for in Section 1412 of Title XIV.

5.1.2 Program Scope

DoD's Domestic Preparedness Program encompasses the nine programs outlined in Title XIV. As shown in Figure 5.1, the program is aimed at improving the preparedness and the responsiveness of first responders and other elements that may support them in a time of crisis.

5.1.2.1 Preparedness

The training and exercise programs shown in Figure 5.1 are intended to improve the local ability to respond to an incident involving WMD. In almost all cases, the local first responders will be the first on the scene and the actions that they take may significantly affect the overall success of the response. Accordingly, the major portion of the programs effort and funding is directed toward this end. In addition, the availability of Federal-level expert advice, data bases, and inventories will greatly assist planning at all levels.

5.1.2.2 Response

If a WMD incident were to occur, the NG, serving in a Title 32 status, provides the state a readily available asset to augment the first responders. Normally within 12 hours, NG units can be mobilized to their armory and prepare to deploy to an incident site. In all cases, NG plans call for mobilizing and being prepared to deploy within 24 hours.

Additionally, when authorized to do so by statute or regulation, U.S. Army Reserve (USAR) units may also be available to provide prompt support and augmentation to the Chemical/Biological Quick Response Force (CBQRF) and other Federal agencies. However, before USAR units can be deployed to provide such support, the request must be made and approved in accordance with DoD Directive 3025.15, "Military Assistance to Civil Authorities." Both components possess appropriate force structure to respond to a domestic terrorist incident involving WMD. The DoD policy for disaster support and response has established that the inherent command and control, and communications capabilities of a unit is of primary importance in a domestic response mission. The specific technical requirements of a WMD incident are best addressed by a CBQRF with augmentation support by the NG and other Army Reserve Components force structure that is locally in place or available under the provisions of an Emergency Management Assistance Compact (EMAC).

Under existing agreements such as the EMAC, neighboring states can augment immediate response efforts during times of emergency. Compacts resolve fiscal and legal issues facilitating emergency response across state lines. The 104th Congress ratified EMAC as PL 104–321 in October 1996. To establish an EMAC, states must enact the necessary legislation. Once states pass new legislation to participate in an EMAC and comply with the necessary statutory requirement of submission to Congress for a 60 day review/approval process, no further Congressional action is required for the states to provide mutual support.

Federal support to the local governments consequence management response will be greatly enhanced by fielding the CBQRF and

the Public Health Services specially trained and equipped medical response teams. In addition, the availability of Federal-level expert advice, data bases, and inventories could greatly assist the local response and make the Federal support more responsive.

5.1.3 Program Implementation

5.1.3.1 Interagency Approach

From the beginning of the program, DoD has sought the active participation of the other Federal agencies. This interagency approach has allowed a comprehensive and interagency Federal approach to meet the needs of local communities. In addition, the synergism of the interagency cooperation has started to meld several Federal programs related to WMD preparedness into a single Federal effort under the direction of the SICG.

5.1.3.2 The Senior Interagency Coordination Group

The SICG on Terrorism was established to facilitate the interagency coordination of Federal policy issues and program activities in support of Federal consequence management training initiatives concerning terrorist incidents involving WMD. The SICG is chaired by FEMA.

The SICG serves as the interagency policy level forum for identification, discussion, and resolution of issues involving the interagency strategy to provide guidance and training support to Federal, state and local first responders who may be called upon to respond to a terrorist WMD event. The SICG focuses on emergency response training in support of established US Government counterterrorism response procedures as directed by Presidential Decision Directive –39 (PDD–39). This includes coordination with other Federal agencies of DoD Domestic Preparedness Program activities under Title XIV, in conjunction with local and state governments. Since October 1996, the SICG has met at least monthly with member agencies providing valuable input on the overall direction and focus of the training effort. It is expected that the SICG will continue to provide interagency coordination and assistance to DoD in implementing program activities as long as required.

5.1.3.3 Funding

Approximately $52.6 million is provided for the Domestic Preparedness Program during FY97. It is allocated as follows:

- The Emergency Response Assistance Program to include the training, expertise advice, Hotline and Helpline programs described below: $16.4 million.
- The development and fielding of the Metropolitan Emergency Medical Response Teams, which is called Metropolitan Mobile Strike Team (MMST) Systems: $6.6 million.
- The coordination of the NBC response capability to include the development and fielding of the CBQRF described below: $9.8 million.
- The testing of preparedness for emergencies involving nuclear, radiological, chemical, and biological weapons: $9.8 million.

- The upgrade of equipment for the Marine Corps Chemical Biological Incident Response Force (CBIRF), including funds for prepositioned equipment at key domestic locations: $10 million.

The FY 1998/FY 1999 Presidents Budget includes $49.5 million in FY 1998 and $52.1 million in FY 1999 to continue to provide emergency response preparedness first responder training and assistance to metropolitan area agencies, and to conduct exercises and preparedness tests in coordination with Federal, State, and local agencies. After

FY 1999, DoD will no longer fund first responder training nor expert assistance, since we plan to transfer these responsibilities to another agency in accordance with Title XIV, Section 1412 provisions. Also, DoD support for exercises and preparedness tests will terminate after FY 2001.

5.2 Programs

5.2.1 Training Program

Section 1412, Title XIV, directs the SECDEF to carry out a program that provides training to civilian personnel of Federal, state, and local agencies. The training program is to include the use, operation, and maintenance of equipment for detecting, monitoring, protecting, and decontaminating. It will also include other aspects regarding emergency responses to the use or threatened use of WMD or related materials. The training support programs outlined below include existing and new programs needed for first responders.

5.2.1.1 Training Support to 120 Cities

Currently, the Federal government offers various programs to train agencies in responding to a WMD attack. For example, DoE offers 15 training programs to first responders that train them in various aspects of WMD. For instance, DoE offers a course that provides a basic knowledge of nuclear radiation, radiation health effects and medical considerations, and nuclear weapons effects. This course is primarily given to first responders such as physicians, Emergency Medical Technicians and firefighters. They also offer a joint course with the Defense Special Weapons Agency (DSWA) that teaches DoD and the intelligence community professionals how to identify technologies associated with weapons program and roles, and responsibilities and capabilities when responding to threats. The DoD also has provided training courses to first responders. These include first responder training prior to the 1996 Summer Olympics, and a course offered to civilian personnel in Federal, state and local agencies at the US Army Chemical School. The four day course, Chemical-Biological Countermeasures for First Responders, includes one day of live agent training at the Chemical Defense Training Facility. These courses, which have been taught to civilian agencies, are being incorporated into the overall training program.

The DoD Program Director held four focus group meetings during February 1997 to determine core competencies and to develop comprehensive training performance objectives (Annex A). Firefighters, hazardous materials (HAZMAT) handlers, and on-scene

incident commanders; emergency medical specialists and doctors; law enforcement officials; and 911 operators and call takers, as well as the appropriate Federal agencies, participated in this effort. In addition, a concurrent effort was initiated to identify existing NBC training modules within DoD and other Federal agencies to fulfill these training needs. Concurrent with the effort to develop the performance objectives and to identify the training modules to support them, the DoD Program Director developed a discussion document to assist local governments assess their level of training against stated performance objectives. The city's self assessment will drive the city's individual training plan.

The proposed training is expected to provide a basic response capability for first responders. In most cases, it will be train-the-trainer type training to be embedded in existing local institutions. As the Federal Domestic Preparedness Program evolves, modifications will be made to the training program as necessary.

Denver, Colorado has been selected as the pilot city for the program. It was selected because of its involvement in the Oklahoma City Bombing Trials and the Summit of 8 Conference in June 1997. An initial meeting was conducted with local and state leaders on March 19, 1997. Within this forum, they were provided an overview of the training and exercise program. First responder training is expected to be conducted prior to the June 20–22, 1997 Summit of 8 Conference. In addition, an integrated exercise will be conducted prior to the Summit of 8 Conference.

Using Denver as the benchmark, self assessments will be conducted by the remaining 26 targeted cities. An April 18, 1997 "Kick-Off" meeting with Mayors, Governors, and other regional representatives of the 27 target cities and their representative states will provide an overview on the overall training program and self assessments. Also, each city will be given information and material for conducting a self assessment. In addition to Denver being the pilot city, New York City, Los Angeles, Chicago, Houston, the District of Columbia, Philadelphia, San Diego, and Kansas City should begin their training during FY 97. The training program will assess the requirements for the first 27 cities in 1997 and, contingent on funding, has a goal of providing training to 120 cities by the end of 1999.

5.2.1.2 Nationwide Training Support

In addition to the individual training plans designed for selected cities and states, the DoD Program Director is designing low cost training packages which will receive wide dissemination via an inexpensive media (e.g. Internet, etc). This training initiative should make training packages available to state and local agencies as rapidly and inexpensively as possible. The DoD has already produced a CD-ROM in October 1996 entitled "Management of Chemical Warfare Injuries" which provides:

- technical information on chemical warfare agents (i.e., nerve, blister, choking and riot control agents and cyanides)
- self-test for evaluating mastery of key learning objectives
- dramatized scenarios offering opportunities for practicing differential diagnoses of patients
- extensive reference materials.

Another CD-ROM will be available in October 1997 entitled "Medical Management of Biological Casualties" which will provide:

- dual learning tracks (one for medical professionals; e.g., physicians, nurses, and physician assistants, and one for first responders; e.g., military medics, emergency medical technicians, and paramedics)
- physiology of and signs and symptoms of exposure to those biological warfare agents identified by United States Army Medical Research Institute of Infectious Disease (USAMRIID) as posing the greatest threat to military personnel (bacteria: anthrax, plague, tularemia, Q fever; viruses: smallpox, Venezuelan equine encephalitis, viral hemorrhagic fever; and toxins: botulinum toxins, staphylococcal enterotoxin B, ricin, trichothecene mycotoxins)
- self-test for evaluating mastery of key learning objectives
- dramatized scenarios offering opportunities for practicing differential diagnoses of patients
- extensive reference materials.

In addition, DoD expects to publish the performance objectives (Annex A) on the Internet.

The NG's Distance Learning Initiative at the National Interagency Counterdrug Institute (NICI) in California may also be included in the nationwide training support program. NICI is developing a course to train civilians and military leaders on the interagency processes necessary to plan for and coordinate with a joint response to a major terrorist incident. Their intent is to conduct one pilot and three more classes before the end of FY 97. The NG has trained over 6,000 soldiers in 1996 and 1997 via their Distance Learning Initiative.

Another alternative is for the U.S. Army Reserve (USAR) to provide training to first responders through the seven USAR Divisions (Institutional Training) [DIV(IT)]. Organic to each DIV(IT) is a Chemical Training Battalion and a Medical Health Services Brigade. The DIV(IT)s are regionally located throughout the United States in Richmond, VA; Milwaukee, WI; Oklahoma City, OK; Rochester, NY; Louisville, KY; Vancouver, WA; and Charlotte, NC.

5.2.2 Chemical/Biological (CB) Hotline/Helpline

5.2.2.1 CB Hotline

As stated in section 1412, Title XIV, DoD will establish "a designated telephone link to a designated source of relevant data and expert advice for the use of state or local officials responding to emergencies involving WMD or related materials." As depicted in Figure 5.3, DoD will tie into the National Response Center (NRC) to establish access to expert Chemical/Biological (CB) advice and assistance readily available to state and local agencies during emergency situations. To establish the Hotline, the existing NRC automated checklist will be modified to include chemical or biological incidents. The NRC will link the caller with personnel from CBDCOM's operations center. The NRC will concurrently notify the designated Federal On-Scene Coordinator/Regional Response Team and other supporting agencies. Access to nuclear expertise in DoE

continues to be in place through the DoE's 24 hour emergency operations center.

The NRC, located in Washington DC, is operational 24 hours a day. The NRC personnel scan incident reports and classify them according to a prescribed decision tree. Once the report is classified, the NRC executes the notification process to the prescribed Federal agencies. In the case of a WMD incident, a direct link would be made between NRC, CBDCOM, and U.S. Army Medical Research and Material Command (MRMC), or between NRC and DoE. These agencies would then respond directly to the local, state, or Federal agencies requesting assistance.

To meet the requirements of Section 1412, additional personnel and software will be added to ensure that expert advice and timely response are given 24 hours a day. The Hotline is expected to be operational by July 1997.

5.2.2.2 CB Helpline

DoD is establishing a Technical Assistance Chemical/Biological (CB) Helpline to support Federal, state, and local agencies by assisting them as they prepare for emergencies. The Helpline is for non-emergency situations and is a pipeline to the vast knowledge base at CBDCOM and the MRMC. The Helpline provides access to technical experts who can advise or assist on a wide variety of subjects, including personal protective equipment, decontamination systems, medical treatment, sources of equipment, symptoms, detectability and detection equipment, organization of responders, and many other technical aspects of CB incident operations. As depicted in Figure 5.4, incoming calls will be checked against the CB database. If not covered by the database, then the calls will be forwarded to the appropriate technical expert. The Helpline will provide first responders and planners with single source access to required technical information. This Helpline is anticipated to be operational by July 1997.

5.2.3 Expert Advice

DoD and other Federal agencies routinely provide expert advice to local, state and other Federal agencies. For instance, DoD's Technical Escort Unit (TEU), working with the EPA, recently provided technical assistance at the Evor-Phillips Superfund Site in New Jersey to safely dispose of buried containers labeled "Poisonous Gas". The DoD will continue these efforts. The DoD intends to expand, and make more readily available, this level of assistance by establishing the CB Helpline.

5.2.4 Loan of Equipment

DoD may loan "appropriate equipment" upon request. The loan of equipment will be accomplished under the normal DoD procedures established for Military Assistance to Civil Authorities (MACA), DoD Directive 3025.15. Additionally, by using EMACs states can provide cross-state border assistance without additional Congressional approval.

5.2.5 Metropolitan Medical Strike Team (MMST) Systems

Through the assistance of DoD support in FY 1997, DHHS will be assisting 27 major cities throughout the United States in the initial planning and development of MMSTs and their related MMST systems, the procurement of special antidotes and pharmaceuticals, initiation of necessary special equipment procurements, and training of selected personnel. This will be done through direct contracts with the cities and is expected to be completed within 15 months after contract award. However, DoD intends to provide no funding to support these DHHS teams beyond FY 1997.

The MMST is a highly trained, readily deployable, and fully equipped local response team organized and equipped to address WMD effects on human health. It would have specialized skills, pharmaceuticals, and equipment that would enable it to assist in identifying a WMD agent and initiating victim decontamination, conduct medical triage, and initiate appropriate therapy prior to transportation to emergency and definitive medical care facilities.

Each MMST will operate within a system that not only provides an initial, on-site response, but also provides for safe patient transportation to hospital emergency rooms, provides definitive medical and mental health care to victims of this type of attack and can prepare patients for onward movement to other regions should local health care resources be insufficient to meet the total demand for health services. This complete local WMD health care response system is referred to as an MMST system. Experience with two MMSTs formed to support the 1996 Summer Olympics and 1997 Presidential Inaugural indicates the formation and training of each team could take between six and twelve months.

5.2.6 Rapid Response Team

Section 1414, Title XIV, mandates that the SECDEF "shall develop and maintain at least one domestic terrorism rapid response team composed of members of the Armed Forces and employees of Department of Defense who are capable of aiding Federal, state, and local officials in the detection, neutralization, containment, dismantlement, and disposal of weapons of mass destruction containing chemical, biological, or related materials." The DoD has formed the Response Task Force (RTF) and the CBQRF to fulfill this requirement. This CBQRF would fall under the RTF who is responsible for operational control of DoD response forces, less the Joint Special Operations Task Force. The RTF deploys to support the Federal crisis and consequence management operations in support of the Lead Federal Agency (LFA) during domestic operations.

5.2.6.1 Concept

Currently there are established procedures for a U.S. Government response to a terrorist incident involving a weapon of mass destruction. Within the United States the Department of Justice, acting through the FBI, has lead responsibility for managing terrorist incidents. The FBI functions as the on-scene manager for the US Government. FEMA, with the support of the agencies within the Federal Response Plan, acts in support of the FBI in Washington, DC and on the scene of the crisis until such time as the Attorney General transfers lead Federal Agency role to FEMA. The

Department of Justice and FBI have developed, with interagency concurrence, operational guidelines that further define procedures and responsibilities. DoJ/FBI as LFA may request DoD to deploy the CBQRF to assist under three distinct scenarios: no notice; credible threat; and planned event scenarios.

The no-notice scenario assumes that an agent has been released. FEMA, acting in support of the DoJ/FBI, will request DoD assistance to manage the consequences of the incident in accordance with established interagency guidelines and DoD Directive 3025.15. DoD will utilize a quick response team to deploy and assess the incident site and coordinate for additional augmentation. Within this scenario, the CBQRF will be deployed upon notification and at the direction of the SECDEF to support the LFA. The number of individuals deployed may vary and the capabilities may change based on the location of the incident, existing assets available to first responders, and proximity of Federal assets.

The credible threat scenario assumes that intelligence sources have indicated a high probability of a known threat and that deployment of a response force is warranted prior to the actual use of a WMD. Within this scenario, the FBI will request WMD EOD and technical assistance from DoD special mission units as defined under DoD plans and interagency guidelines. Those elements will be called upon by the FBI to detect, render safe, and turn over for disposition any rendered safe WMD devices with EOD potential. Upon request from FEMA, acting in support of the FBI, DoD will deploy the CBQRF, whose focus will be the consequence management aspects of the incident. This response will include a command and control element, appropriate forces from TEU, and the US Marine Corps CBIRF, reinforced as necessary with additional specialized teams for both crisis and consequence management. The task organization for this scenario is directed by the SECDEF, after coordination with the LFA, who will coordinate with local and state official.

The planned event scenario assumes that predetermined WMD response elements will be prepositioned based upon coordination with the LFAs. This scenario is usually associated with special events such as political conventions, inaugurations or large public gatherings of personnel that would be vulnerable to a terrorist incident. The planned event scenario response may include a larger command and control element and will include an additional response team reinforced, if necessary, by trained medical, decontamination, and monitoring teams. The task organization for this response will also be directed by the SECDEF, after coordination with the LFA, who will coordinate with local and state official.

Based on the threat scenario, a three-tiered consequence management organization and response capability will be deployed to augment existing first responders capabilities.

5.2.6.1.1 Phase 1/Tier I (NLT 4 hours)

The lead elements of the CBQRF respond to a notification of an incident at the direction of the SECDEF. The team will be on 24 hour alert status and ready to depart within 4 hours after receiving their orders. This small team will have a limited capability to detect, neutralize, contain, dismantle and dispose of a chemical or bi-

ological device. Their primary purpose is to assess the situation, and provide advice and assistance to the local officials until the response force arrives. This team will also provide advice to the LFA and local officials on the task organization of the follow-on elements.

5.2.6.1.2 Phase 2/Tier II (NLT 18 hours)

The main element of the CBQRF will be ready to deploy within 18 hours after notification. In addition to command and control and liaison elements, the capabilities brought by this force will include decontamination stations, medical triage stations, agent detection, low level agent monitoring, perimeter entry control and support elements which are currently available for deployment. During June 1997 in Denver, DoD plans to validate the headquarters element. The exercise will also test the headquarters' interoperability with other DoD units and Federal agencies, as well as its ability to respond to a WMD incident.

5.2.6.1.3 Phase 3/Tier III (NLT 24–96 hours)

Tier III response elements will be specialized units that augment the capabilities of the CBQRF. Configuration of these augmentation units will be driven by the local situation and assets available. For instance, certain DoD laboratories could be called upon to respond with specialized equipment and capabilities. One such laboratory is the AMC Treaty Laboratory that was established to verify compliance with the Chemical Weapons Convention (CWC). It is a ISO 9001 registered quality system that was pre-deployed to support the FBI during the Olympics in Atlanta. The US Army Medical Research Institute of Infectious Diseases (USAMRIID) is capable of deploying an Aeromedical Isolation Team consisting of physicians, nurses, medical assistants and laboratory technicians. These team members are specially trained to provide care for and transport of patients with diseases caused by either biological warfare agents or infectious diseases requiring high containment. Also, Edgewood Research, Development and Engineering Center (ERDEC) maintains a rapidly deployable mobile environmental monitoring and technical assessment system, the Mobile Analytical Response System (MARS). The MARS provides a state-of-the-art analytical assessment of chemical or biological hazards at incident sites. The Naval Medical Research Institute (NMRI), through their Biological Defense Research Program (BDRP), has designed reagents, assays and procedures for agents classically identified as biological threat, as well as non-classical threat agents in environmental and clinical specimens. This program has developed rapid, hand-held screening assays that can be deployed globally. Other units that could be utilized would be Active Army, National Guard and U.S. Army Reserve chemical decontamination and medical units.

5.2.7 Exercises

5.2.7.1 Testing

Section 1415, Title XIV mandates that the SECDEF, in conjunction with the FBI, FEMA, DoE and other Federal agencies, "shall

develop and carry out a program for testing and improving the responses of the Federal, state, and local agencies to emergencies involving biological weapons and related materials and emergencies involving chemical weapons and related materials." The program will include exercises to be carried out during five successive fiscal years beginning with fiscal year 1997 and ending with FY 2001.

5.2.7.2 Exercise Approach

Over the last two years, a wide variety of exercises have addressed accidents and incidents involving use of WMD. These include MIRRORED IMAGE, CALYPSO WIND, CAPITOL REACTION and TERMINAL BREEZE. The ILL WIND series of exercises and DISPLAY SELECT, a nuclear weapons accident exercise, have also provided valuable insights and a baseline for future exercise design. Additionally, there have been over a much longer period classified exercises dealing with WMD terrorism. There is an established interagency Counterterrorism exercise program that has been in existence since the early 1980's. Over the past four years there has been an increased emphasis on WMD terrorism exercises. The Counterterrorism interagency exercises committee is working to integrate various agency exercises to ensure synergism and efficiency. DoD's Program Director is examining how to meet the domestic preparedness program exercise requirements by coordination with the counterterrorism committee and FEMA on the National exercise schedule. The exercise approach is still evolving, given the many exercises already planned by other Federal agencies and state and local governments.

The first component of the exercise program is to train-the-trainers. Then, conduct tabletop exercises that lead to practical or "muddy boots" exercises for first responders. The underlying philosophy is to get the trainer trained and then build upon his/her growing experience base.

The tabletop exercise would test city and state response to chemical or biological weapon incidents. The exercise would involve the local and state responders and would occur immediately after they were trained. A practical exercise for a WMD incident would emphasize city and state response functions unique to WMD incidents with simulation role playing of Federal support. This series of exercises will accomplish the follow objectives: 1) Provide immediate feedback to participants; 2) Reinforce training; and 3) Evaluate the effectiveness of training.

A second component of the exercise program will involve conducting systematic preparedness testing in two model cities. The purpose of the test will be to conduct a systematic comprehensive evaluation of available and alternative concepts, procedures, approaches and equipment for responding to a range of terrorist WMD incidents in each city. The results of systematic preparedness testing would be to develop an integrated model or system of procedures, equipment, response approaches that could be applied throughout the nation at the Federal, state, and local levels. This integrated model could then be implemented in the United States to improve domestic preparedness. Results from the program will continually be transitioned to the on-going training program.

The third component of the exercise program will seek to coordinate and integrate the WMD exercises through the interagency exercise program which are already planned by various Federal agencies. By the different Federal agencies participating in each others exercises and by involving state and local players, response force personnel could capitalize on the training potential of each exercise and gain an additional synergistic effect. In these situations where cross-level participation in exercises would occur, the response force personnel would sharpen their individual skills and be better prepared in the event of a WMD situation.

5.2.7.3 Exercises

Two WMD-related exercises have occurred and two are planned during FY 97.

The exercise CAPITOL REACTION was the first exercise to be conducted since the passage of the Defense Against Weapons of Mass Destruction Act of 1996. It addressed a local-state-Federal response to a potential terrorist use of a WMD during the Inaugural. Overall, CAPITOL REACTION enhanced the interagency cooperation by providing a forum to discuss and resolve interagency policy issues resulting from a crisis and consequence response in support of the Inauguration. Furthermore, it provided the operating parameters for future interagency exercises. It also established a process for interagency communication in the events of an incident. In addition, the FBI sponsored and the DoE funded and organized a WMD Interagency Support Exercise (WISE) to assist interagency contingency preparation for a nuclear, chemical or biological terrorist incident during the Presidential Inauguration. The WISE included a WMD counterterrorism crisis response tabletop seminar and a field training exercise to rehearse current procedures for nuclear, chemical or biological terrorist incidents.

In May 1997, the interagency community will conduct an Interagency Terrorism Response Awareness Program (I-TRAP) tabletop seminar which will focus on consequence management in response to a WMD incident. Just prior to the Summit of 8 Conference in Denver (June 20–22, 1997), DoD will host a chemical-biological exercise to validate the Headquarters, CBQRF, improve local, state and Federal operational plans and to evaluate the domestic preparedness training provided to the first responders. The interagency community will conduct a tabletop and limited on-the-ground exercise to assist Denver and Colorado in preparing for the Summit of 8 Conference.

5.2.8 Military Assistance to Civil Law Enforcement Officials

The DoD and DoJ are developing statutorily mandated regulations for DoD to support the DoJ during emergency situations involving NBC weapons. These regulations are based upon draft interagency guidelines implementing PDD–39 as well as agreed upon DoJ-DoD procedures used for the 1996 Summer Olympics and Presidential Inaugural. These regulations would apply to those situations where technical assistance is requested by the Attorney General in emergencies involving biological weapons, chemical weapons, nuclear material, or nuclear byproduct material. The DoD and DoJ have developed a draft which should be completed, coordi-

nated, and approved this summer. The intent is to make these regulations an appendix to DoD Directive 3025.15, "Military Assistance to Civil Authorities," and then examine the best method to disseminate these regulations to appropriate Federal agencies.

5.2.9 Rapid Response Information System

The components required by section 1417, Title XIV, that form the Rapid Response Information System are covered below.

5.2.9.1 Master Inventory

The FEMA is currently compiling a master inventory which will contain information on physical equipment and assets owned by each of the FRP agencies that could be made available for use to aid state and local officials in emergency situations involving WMD. The master inventory will include assets associated with search and rescue, detection and analysis, personnel protection, medical treatment, monitoring and decontamination. The compilation of the master inventory is scheduled to be completed by December 31, 1997.

5.2.9.2 Database on Chemical and Biological Materials

The FEMA, with the support of DoD and other agencies, is preparing a database which will provide a source of information on chemical and biological agents, munitions characteristics and safety precautions for civilian use. DoD is supporting FEMA in the development of the database by providing technical expertise needed to prepare the database. Officials from DoD and FEMA are determining the design and specific information that will be included on the database. The initial design and compilation of the database will be completed not later than December 31, 1997, and updated annually thereafter.

6.0 Conclusions

This report reflects the programs that are ongoing or planned in order to improve the domestic preparedness in response to WMD incidents. Provided adequate Congressional funding in the outyears is available, DoD and the interagency community will continue to provide direct training to 120 cities over the next several years. DoD will continue to provide nationwide training and support to local, state and other Federal agencies to ensure that first responders as well as supporting agencies are prepared to react in the event of an emergency involving WMD.

ANNEX A: First Responders Performance Objectives to the Domestic Preparedness Program in the Defense Against Weapons of Mass Destruction

		Performance Requirements Legend for requirements: o—basic level •—advanced level *—specialized				
		Awareness				
Competency Level	Ref	Employees	Responders	Operations	Technician/ Specialist	Incident Command
Examples		Facility workers, hospital support personnel, janitors, security guards	Initial firefighters, police officers, HAZMAT personnel on scene: 911 operators/ dispatchers	Incidents response teams, EMS basic	Incident response team specialists, technicians, EMS advanced, and medical specialsts	Incident commanders.
1. Know the potential for terrorist use of NBC weapons:	C,F,M,m,G					
—what nuclear/biological/ chemical (NBC) weapons substances are,		o	•	•	•	•
—their hazards, and risks associated with them,		o	•	•	*	•
—likely locations for their use,		o	•	•	•	•
—the potential outcomes of their use by terrorists.		o	•	•	•	•
—indicators of possible criminal or terrorist activity involving such agents,			•	•	•	•
—behavior of NBC agents				•	*	•

ANNEX A: First Responders Performance Objectives to the Domestic Preparedness Program in the Defense Against Weapons of Mass Destruction—Continued

		Performance Requirements Legend for requirements: o—basic level •—advanced level *—specialized				
		Awareness				
Competency Level	Ref	Employees	Responders	Operations	Technician/ Specialist	Incident Command
2. Know the indicators, signs and symptoms for exposure to NBC agents, and identify the agents from signs and symptoms, if possible.	C, F,M,m	o	•	•	*	•
2a. Knowledge of questions to ask caller to elicit critical information regarding an NBC incident.	G,m		• (911 only)			
2b. Recognize unusual trends which may indicate an NBC incident	G,m		•	•	*	•
3. Understand relevant NBC response plans and SOPs and your role in them.	C,F,M,m	o	•	•	•	•
4. Recognize and communicate the need for additional resources during a NBC incident.	C,m,G	o	•	•	•	•
5. Make proper notification and communicate the NBC hazard.	C,F,M,m	o	•	•	•	•
6. Understand:	C,F,m					
—NBC agent terms		o	•	•	•	•

—NBC toxicology terms				• (EMS-B only)	•	•
7. Individual protection at a NBC incident:	C,F,M,m					
—Use self-protection measures		o	•	•	*	•
—Properly use assigned NBC protective equipment				•	*	•
—Select and use proper protective equipment						
8. Know protective measures, and how to initiate actions to protect other and safeguard property in an NBC incident.	F,M	o	•	•	•	•
8a. Know measures for evacuation of personnel in a downwind hazare area for an NBC incident.	M,G		•	•		•
9. CB decontamination procedures for self, victims, site/equipment and mass casualties:	C,F,M,m					
—Understand & implement		o (self)	•	•	*	•
—Determine						
10. Know crime scene and evidence preservation at an NBC incident.	F,M,m	o	• (except 911)	•	•	•
10a. Know procedures and safety precautions for collecting legal evidence at an NBC incident.	F,G,m		•	•	*	•

ANNEX A: First Responders Performance Objectives to the Domestic Preparedness Program in the Defense Against Weapons of Mass Destruction—Continued

		Performance Requirements Legend for requirements: o—basic level •—advanced level *—specialized				
		Awareness				
Competency Level	Ref	Employees	Responders	Operations	Technician/ Specialist	Incident Command
11. Know Federal and other support infrastructure and how to access in an NBC incident.	C,F,M,m		o (911 only)	o	•	*
12. Understand the risks of operating in protective clothing when used at an NBC incident	C,F,m		o	•	*	•
13. Understand emergency and first aid procedure for exposure to NBC agents, and principles of triage.	F,M		o	•	*	•
14. Know how to perform hazard and risk assessment for NBC agents.	C,F,M,m			•	•	•
15. Understand termination/ all clear procedures for a NBC incident	C,F,m			•	•	•
16. Incident Command System/Incident Management System	C,F,M					
—Function within role in NBC incident			•	•	•	*

—Implement for NBC incident				*
17. Know how to perform NBC contamination control and containment operations, including for fatalities.	C,F,M,m	•	*	•
17a. Understand procedures and equipment for safe transport of contaminated items.	G,m	•	*	•
18. Know the classification, detection, identification and verification of NBC materials using field survey instruments and equipment, and methodsfor collection of solid, liquid and gas samples.	C,F,M,m	o	*	•
19. Know safe patient extraction and NBC antidote administration.	F,m	(Medical only)	* (Medical only)	o
20. Know patient assessment and emergency medical treatment in NBC incident.	M,m,G	• (Medical only)	* (Medical only)	
21. Be familiar with NBC related Public Health & Local EMS Issues.	G	• (Medical only)	• (Medical only)	o
22.Know procedures for patient transport following NBC incident.	F,G	• (Medical only)	• (Medical only)	o
23. Execute NBC triage and primary care.	G	• (Medical only)	* (Medical only)	

ANNEX A: First Responders Performance Objectives to the Domestic Preparedness Program in the Defense Against Weapons of Mass Destruction—Continued

		Performance Requirements Legend for requirements: o—basic level •—advanced level *—specialized				
		Awareness				
Competency Level	Ref	Employees	Responders	Operations	Technician/ Specialist	Incident Command
24. Know laboratory identification and diagnosis for biological agents.	G				* (Medical only)	
25. Have the ability to develop a site safety plan and control plan for a NBC incident.	C,F				*	*
26. Have ability to develop NBC response plan and conduct exercise of response.	G,m					•

Legend for References:
C-29 CFR 1910.120 (OSHA Hazardous Waste Operations and Emergency Response)
M—Macro objectives developed by a training subgroup of the Senior Interagency Coordinating Group
m—Micro objectives developed by CBDCOM
G—Focus Group Worshop
F—NFPA Standard 472 (Professional Competence of Responders to Hazardous Materials Incidents) and/or NFPA Standard 473 (Competencies for EMS Personnel Responding to Hazardous Materials Incidents.

ANNEX B: Acronym List to the Domestic Preparedness Program in the Defense Against Weapons of Mass Destruction

AMC	Army Materiel Command
ASA (IL&E)	Assistant Secretary of the Army (Installation, Logistics, & Environment)
BDRP	Biological Defense Research Program
CB	Chemical Biological
CBDCOM	Chemical Biological Defense Command
CBIRF	Chemical Biological Initial Response Force
CBQRF	Chemical Biological Quick Response Force
CDC	Centers for Disease Control
CWC	Chemical Weapons Convention
DIA	Defense Intelligence Agency
DoE	Department of Energy
DoJ	Department of Justice
DoT	Department of Transportation
DOMS	Director of Military Support
DSWA	Defense Special Weapons Agency
EOD	Explosive Ordnance Disposal
EPA	Environmental Protection Agency
ERDEC	Edgewood Research, Development and Engineering Center
FBI	Federal Bureau of Investigation
FEMA	Federal Emergency Management Agency
FRP	Federal Response Plan
GSA	General Services Administration
HAZMAT	Hazardous Materials
HQDA	Headquarters Department of the Army
I-TRAP	Interagency Terrorism Response Awareness Program
LFA	Lead Federal Agency
MARS	Mobil Analytical Response System
MMST	System Metropolitan Medical Strike Team System
MRMC	Medical Research and Materiel Command
MSCA	Military Support to Civilian Authorities
NBC	Nuclear Biological Chemical
NCS	National Communications System
NG	National Guard
NGA	National Governors Association
NGB	National Guard Bureau
NICI	National Interagency Counterdrug Institute
NMRI	Naval Medical Research Institute
NRC	National Response Center
OD	Ordnance Disposal
PHS	Public Health Services
RC	Reserve Component
SECARMY	Secretary of the Army
SECDEF	Secretary of Defense
SICG	Senior Interagency Coordination Group
TEU	Technical Escort Unit
USAMRIID	United States Army Medical Research Institute of Infectious Disease

ANNEX B: Acronym List to the Domestic Preparedness Program in the Defense Against Weapons of Mass Destruction—Continued

USCG	United States Coast Guard
USDA	United States Department of Agriculture
VA	Department of Veterans Affairs
WMD	Weapons of Mass Destruction
WISE	WMD Interagency Support Exercise

d. The Protection of U.S. Forces Deployed Abroad: Report to the President from the Secretary of Defense, September 15, 1996[1]

The attack on U.S. forces at Khobar Towers has dramatically underscored that for U.S. forces deployed overseas, terrorism is a fact of life. Every terrorist attack provides lessons on how to prevent further tragedies. However, the Khobar Towers attack should be seen as a watershed event pointing the way to a radically new mind-set and dramatic changes in the way we protect our forces deployed overseas from this growing threat. This report reviews the Khobar Towers attack, the context of our Persian Gulf force deployments, the force protection measures taken before and after the attack, and lessons learned for all of our military operations.

THE ATTACK AGAINST KHOBAR TOWERS ON JUNE 25TH

Khobar Towers is a compound built by the Saudi Government near Dhahran that housed the residential quarters of almost 3,000 U. S. military personnel of the 4404th Air Wing (Provisional), along with military personnel from the United Kingdom, France, and Saudi Arabia. U.S. military personnel first occupied this compound in 1991 during the Coalition force buildup before the Gulf War.

Shortly before 10:00 p.m. local time on Tuesday, June 25, 1996, a fuel truck parked next to the northern perimeter fence at the Khobar Towers complex. Air Force guards posted on top of the closest building, Building 131, immediately spotted the truck and suspected a bomb as its drivers fled the scene in a nearby car. The guards began to evacuate the building, but were unable to complete this task before a tremendous explosion occurred. The blast completely destroyed the northern face of the building, blew out windows from surrounding buildings, and was heard for miles. Nineteen American service members were killed and hundreds more were seriously injured. Many Saudis and other nationals were also injured.

The response of our forces at Khobar Towers to this tragedy reflected their thorough training and bravery. The buddy system worked, and every injured airman received on-the-spot first aid before being escorted to the clinics. Medical teams, both military and civilian, American and Saudi Arabian, performed commendably without rest for many hours and, in some cases, despite their own wounds.

Once the immediate steps were taken to care for the injured, search for survivors, and account for everyone, the command of the 4404th Air Wing began to reconstitute itself to carry out its Southern Watch mission. In less than three days, the skies over southern Iraq once again were being patrolled by the Coalition in full force.

The June 25 bombing attack remains under investigation by the Saudi Arabian Government, assisted by large numbers of forensic experts from the U.S. Federal Bureau of Investigation, which has

[1] Source: http://www.defenselink.mil/pubs/downing__rpt/report__f.html.

responsibility within the U. S. government for investigating terrorist attacks against Americans overseas. The Department of Defense (DoD) knows neither who the perpetrators of this attack are, nor who sponsored them.

WHY ARE WE IN THE PERSIAN GULF?

The attack on Khobar Towers has raised questions about the need for our presence in the Arabian Gulf Region, and Saudi Arabia in particular.

Our security interests in Saudi Arabia date back to 1945 when President Franklin Roosevelt met with King Abdul Aziz on his way home from the Yalta Conference. The United States has had a military presence in Saudi Arabia since the early 1950s. During most of this time, our presence has been well under 1,000 uniformed personnel and civilian employees, in addition to their families, engaged in training and advising the Saudi Arabian military. The United States Military Training Mission to Saudi Arabia (USMTM) was established in 1953 to assist the regular Saudi military under the Ministry of Defense and Aviation. In 1965 a U.S. Army program manager's office (OPM/SANG) was established to help in the modernization of the Saudi Arabian National Guard.

Our presence in helping the Saudis modernize their military and absorb new equipment was welcomed and unobtrusive. The Kingdom was a benign environment in which tens of thousands of American civilians lived and worked, particularly since the oil boom of the 1970s. Since 1977, our military assistance, including the salaries and expenses of our uniformed personnel and civilian employees, has been fully funded by the Saudi Arabian Government.

Saudi Arabia has never hosted foreign military bases of any nation. While Saudi Arabia and its Gulf neighbors generally welcomed an American military presence in the region after Great Britain ended its security responsibilities east of Suez in the early 1970s, they preferred that presence to be "over the horizon." For the United States, this presence was manifested primarily by our naval Middle East Force in the Arabian Gulf. While the United States made use of the Saudi air base at Dhahran in the early years of the Cold War, U.S. combatant forces were rarely deployed to the Kingdom. The major exception before the Gulf War was during the Iran-Iraq war in the 1980s when American AWACs and tanker aircraft were deployed to Riyadh.

The Iraqi invasion of Kuwait on August 2, 1990, dramatically changed the security dynamics, and the U.S. presence, in the region. The United States, acting to protect its vital interests, led a coalition of Western and Islamic forces that deployed over half a million men and women to the Gulf to defend Saudi Arabia and the smaller Gulf states and to free Kuwait from Iraq's brutal occupation. Through Operations Desert Shield and Desert Storm they won an impressive victory, although the threats to the region from aggressor states were not completely destroyed.

The primary American interest that we acted decisively to protect in the Gulf War was access to the vast energy resources of the region, i.e., nearly two-third of the world's proven oil reserves upon which our own economy and those of the entire industrial world de-

pend so heavily. This fact alone would have justified our actions in 1990–1991, but America also has other vital interests in the region. The security of Israel and Egypt and the Gulf states themselves was endangered by Iraq's aggression and desire to dominate the politics of the region. Coupled with the end of the Cold War, the Coalition victory allowed the United States to move forward on the Middle East peace process in a manner not previously possible. America also has vital interests in protecting U.S. citizens and property abroad, and in ensuring freedom of navigation through the air and sea lanes that connect Europe and the West with Africa, Asia, and the Indian Ocean, all of which pass through and alongside the Arabian Peninsula.

THE NATURE OF OUR CURRENT MISSION

When President Bush sought King Fahd's permission to deploy American forces to Saudi Arabia in 1990 for the build-up to Desert Shield/Desert Storm, he made a commitment that we would depart when our wartime mission was concluded. The United States sought no permanent bases or operational presence on the Arabian Peninsula, and that continues to be our policy.

However, the threat to U.S. vital interests in the region from Saddam Hussein's regime did not end with Desert Storm. While the Desert Storm coalition ejected the Iraqi army from Kuwait in 1991, the goal of the Coalition was not to dismember Iraq or advance to Baghdad to change the regime. Saddam Hussein has remained in power in Baghdad and continues to ignore or obstruct the U.N. Security Council resolutions that defined the terms of the cease-fire, particularly the requirement to disclose and destroy all weapons of mass destruction (WMD), nuclear, chemical, and biological, and their long-range means of delivery. Consequently, at the invitation of the Gulf countries, a coalition of forces, primarily from the United States, Great Britain and France, has remained in the region to enforce the U.N. Resolutions. These forces include the 4404th Air Wing, the unit that occupied the Khobar Towers facility.

In the years since the Gulf War, Saddam Hussein's regime has undertaken overt acts threatening peace in the region. In 1992, in response to Iraqi repression of the Shia, the Coalition created Operation Southern Watch. In 1993, the Iraqi regime plotted to assassinate former President George Bush during a visit to Kuwait. In response, the United States launched cruise missile strikes against the Iraqi intelligence headquarters. In 1994, the Iraqi regime again moved forces toward the Kuwaiti border with an intent to launch another invasion. U.S. forces responded with a rapid buildup, using host nation bases, including those in Saudi Arabia, and the Iraqis turned back. The U.N. subsequently passed UNSCR 949, which limits Iraq's right to deploy military forces in Southern Iraq—the area defined by the Coalition as south of 32 degrees North. In August 1996, Saddam Hussein, again in violation of U.N. resolutions, attacked without provocation the Kurdish city of Irbil. He then declared the two No Fly Zones, established in the terms of the cease-fire and after Saddam's repression of the Kurds, null and void. The United States and the United Kingdom extended the southern No

Fly Zone to 33 degrees parallel and launched a series of missile attacks against Iraqi air defenses.

We have been able to respond to Iraq's continued provocations and threats to the peace and stability of its neighbors because the United States, together with its coalition partners, France and the United Kingdom, has maintained a strong military presence on the Arabian Peninsula, principally Saudi Arabia, since the end of Operation Desert Storm. Our forward presence not only allows us to respond quickly, but to monitor Iraq's compliance with U.N. Security Council resolutions, with respect to both repression of the Kurds and direct military threats to the Gulf states. This forward presence includes:

Nearly 5,000 U.S. Air Force men and women in Operation Southern Watch who conduct combat air missions from Saudi Arabia and Kuwait, enforcing the No Fly Zone over southern Iraq that restricts Saddam Hussein's ability to oppress his people and threaten the peace and stability of the region.

U.S. servicemen and women who support the work of the United Nations Special Commission (UNSCOM) charged with discovering and destroying Saddam's programs to develop and produce weapons of mass destruction, efforts which Iraq continues to oppose. This effort includes U–2 surveillance missions over Iraq to assist with UNSCOM's monitoring responsibilities.

U.S. Army PATRIOT air defense batteries that have been deployed to protect our forces and major Saudi population centers at Dhahran and Riyadh since 1991 and regular rotations of battalion-sized armor units that exercise in Kuwait.

The U.S. Navy Middle East Force that has been greatly expanded from a few surface combatant ships to include the presence of an Aircraft Carrier Battle Group and a Marine Amphibious Ready Group throughout most of the year.

Robust military exercise programs with every Gulf state, unheard of before Desert Storm, that contribute to the operational readiness of all our military forces and help deter Iraq as well as Iran, which also has hegemonic ambitions coupled with a military modernization program that is out of all proportion to its defensive needs.

Prepositioned equipment—a full brigade's worth in Kuwait, another two brigades' worth afloat, and we are building up to a fourth brigade's worth in Qatar. This equipment allows us to insert a substantial deterrent force onto the Arabian Peninsula in a fraction of the time that it took us in 1990.

Maintaining the U.S. military presence in the Arabian Gulf has not been easy for our uniformed personnel who have served repeated tours of duty in a harsh environment. It places a serious strain on ships, aircraft, and other equipment operating at high tempo. While the cost of our presence has been greatly eased through generous Host Nation Support contributions from Saudi Arabia, Kuwait and the other Gulf countries, the monetary cost to the United States remains high. But this residual cost and the other sacrifices associated with our presence, are justified because they protect vital U.S. national interests at stake in the region.

Our experience clearly shows that an immediate and forceful response to Saddam Hussein's provocative actions has been effective in causing his regime to back off from threatening moves each time it has been foolish enough to try them. It is far more cost-effective to be in a position to deter Saddam Hussein than have to fight another war.

In addition, should deterrence fail, we are, without question, in a better position to defeat aggression than we were in the Summer of 1990, prior to Desert Shield. Then, it took more than four weeks to place meaningful combat power ashore. Today, we can do so in four to five days, using the combination of forward presence and measures that we have taken to improve our ability to deploy rapidly. We demonstrated this potential in October 1994 with great success, and we continue to exercise with the equipment for both training and deterrent purposes.

TERRORIST ATTACKS

The terrorist attacks on the OPM/SANG in Riyadh last November and on Khobar Towers in Dhahran last June were not only attacks on American citizens and forces, they were also an assault on our security strategy in the region.

Our military presence in the region is opposed by Iran and Iraq, obviously, but also by home-grown dissidents in some countries of the region. The opposition includes extremist groups who are not only coldblooded and fanatical, but also clever. They know that they cannot defeat us militarily, but they may believe they can defeat us politically, and they have chosen terror as the weapon to try to achieve this. They estimate that if they can cause enough casualties or threat of casualties to our forces, they can weaken support in the United States for our presence in the region, or weaken support in the host nations for a continued U.S. presence. They seek to drive a wedge between the U.S. security strategy in the Gulf and the American public, and between the United States and our regional allies.

Before the terrorist attacks, Saudi Arabia had long been seen as an oasis of calm and safety in the turbulent Middle East. Americans, both military and civilians alike, felt secure and generally welcome, albeit within a very different and restrictive culture compared to the United States or in Western Europe and elsewhere our forces were stationed overseas. Our approach to security matters in the Kingdom reflected this attitude, which was the reality until recent years. We lived and worked in urban environments and considered them on a par with Europe or Japan. While U.S. military security practices around the world were tightened following the Beirut bombings in 1983, we felt little danger in Saudi Arabia. Our presence in Saudi Arabia after the Gulf War had been requested and agreed to by the Saudi Government. Indeed, our presence contributed significantly to our host's defense.

The location of a large number of our personnel and our major combat air operations in the Dhahran region reflected this sense of well-being. The air facilities were excellent and the Saudi Government provided good quality residences and office facilities in the nearby Khobar Towers complex. That complex had been built by the Saudi Government and was offered to the U.S. military for use

during the Gulf War. It continued to be used by U.S. military personnel after Operation Southern Watch began.

The depth of feeling among strongly conservative Saudi elements that opposed inviting Western forces to the Kingdom in 1990 and remained opposed to our continued presence was slow to emerge clearly. There was evidence of anti-regime activity and a rise in anonymous threats against American interests, especially following the additional troop deployment in October 1994. Resentment over the costs of the Gulf War and the continued high costs of military modernization, and discontent over strains in the social fabric of the Kingdom, even from normally pro-Western Saudis, were recognized but not considered a threat to American military security. Since our personnel worked on Saudi military installations and lived in guarded compounds, any risks were seen as manageable by maintaining a low profile and following standard personal security practices. Force protection was actively pursued, but in the context of a stable and secure environment.

Following the November OPM/SANG bombing, that environment was re-evaluated, the threat level assessment was raised to "High" and extensive improvements were made in all our Arabian Gulf region facilities. In addition, we received a number of intelligence indications that new attacks were being contemplated against American forces and that Khobar Towers could be a target. What these indications lacked was warning of the specific kind of attack that occurred. However, they caused our commanders to put in place a wide variety of new security measures. At Khobar Towers alone, over 130 separate force protection enhancements were undertaken—barriers were raised and moved out, fences strengthened, entrances restricted, guard forces increased. The enhancements were aimed at a variety of potential threats, ranging from bombs to attempts to poison food and water supplies. The enhancements may well have saved hundreds of lives by preventing penetration by bombers into the center of the compound. The approach, however, was one of enhancing security of existing facilities despite their overall limitations, and this proved insufficient to protect our forces.

The climate of calm and safety in Saudi Arabia vanished with the November 1995 bombing of the OPM/SANG office in Riyadh and the highly sophisticated attack on Khobar Towers, which used a bomb now estimated at more than 20,000 pounds. It became clear that we needed to radically re-think the issue of force protection in the region, and that our conclusions from this effort would carry implications for the protection of our forces around the world.

RESPONSE TO THE KHOBAR TOWERS BOMBING: RELOCATE, RESTRUCTURE AND REFOCUS

Immediately following the Khobar Towers bombing attack, we undertook a fundamental re-evaluation of our force posture in the Arabian Gulf region. The guiding principles were: (1) We would continue to perform our missions; (2) Force protection would be a major consideration; and (3) Other tradeoffs could be made. Essentially, we looked at the mission tasks as if we were planning the operation from scratch within a very high threat environment. Consequently, we came to the conclusion that a far different force pos-

ture was appropriate. After extensive discussions with the senior Saudi leadership, I ordered a major realignment of our force posture in Saudi Arabia, an effort known as Operation Desert Focus. This new posture will greatly enhance force protection, while still permitting us to accomplish our missions. The effort, which is nearing completion, is two-pronged.

First, with the full cooperation and support of the Saudi Arabian Government, we began immediately to relocate our deployed air forces (the 4404th Air Wing) from the Saudi air bases located in urban concentrations at Riyadh and Dhahran to an isolated location at the uncompleted Prince Sultan Air Base near Al Kharj, where many Coalition forces were located during the Gulf War. While our personnel will be living in tents initially, we will be able to construct very effective defenses against terrorist attacks. This relocation effort, which will require over 1,400 truck loads to accomplish, is well underway. More than 500 tents, most of them air-conditioned, have been erected to house more than 4,000troops and provide dining and recreation facilities, communications sites, and maintenance and operations facilities. The refueling tankers and reconnaissance aircraft from Riyadh were the first to arrive last month, and the move of the fighters and other aircraft from Dhahran is almost complete. More than 2,000 additional military personnel were deployed to Saudi Arabia temporarily to assist in this effort to provide security for the moves, erect facilities, and provide services at the base until permanent arrangements are in place. The Saudi Arabian Government has assumed responsibility for constructing permanent facilities. The isolated location and large size of the Prince Sultan Air Base allows for extensive perimeters and avoids intense concentrations of troops.

Some of the units in Saudi Arabia cannot be relocated without degrading their effectiveness. Our USMTM and OPM/SANG security assistance personnel who train and advise the Saudi military must be in close proximity to their Saudi counterparts in the capital and at various bases. Our PATRIOT missile battery crews must be located near the urban areas and air bases that they defend. While these units must continue to work where they are now, we are taking steps to improve their security by consolidating them and moving them to more secure housing areas, providing more guards and barriers, and taking other steps to enhance their protection and lessen the impact of any future attacks.

Second, the Department has re-examined its personnel assignment policies for Saudi Arabia. While the majority of the operational forces with the 4404th Air Wing are on temporary duty and deploy on rotational assignments for up to 179 days at a time before returning to their home bases, many of the DoD personnel permanently assigned to Saudi Arabia with OPM/SANG and USMTM are on multi-year tours accompanied by their family members. At the time of the Khobar Towers bombing, we sponsored nearly 800 military dependents in Saudi Arabia alone. This no longer seems prudent.

At my request, the Department of State implemented an "authorized departure" of all U.S. Government dependents from Saudi Arabia in July 1996, which provides monetary entitlements to any families who wish to leave. In addition, DoD has withdrawn com-

mand sponsorship for dependents of most permanently assigned military members, which had the practical effect of an orderly, mandatory return. Nearly 300 dependents arrived by charter aircraft in Charleston, South Carolina, on August 18. While families are disrupted and some are undoubtedly displeased by this change in policy, I believe it was the correct choice. Military members understand personal risk and accept it by the nature of their profession. That is not true of their dependents, especially children, and we cannot allow them to remain in harm's way.

In the future, nearly all permanent assignments in Saudi Arabia will be one-year unaccompanied tours. There are some assignments where the nature of the job requires longer tours for continuity and familiarization with the host government, and we have identified 59 billets that will be permitted to be accompanied by dependents. School-aged children will not be allowed under any circumstance under current conditions.

OTHER REGIONAL AND WORLDWIDE INITIATIVES

We also looked beyond Saudi Arabia, first to the other countries on the Arabian Peninsula where we have DoD personnel, both combatants and noncombatants alike. In Kuwait, we will move exposed Air Force personnel onto the Ali Al Salem Air Base where they will live temporarily in tents, as at Prince Sultan Air Base at Al Kharj in Saudi Arabia. In the United Arab Emirates (UAE), we have completed moving our Air Force personnel from an urban hotel onto a UAE air base where they will also live in temporary facilities. In both cases we have received strong support from the host countries.

The situation in each country in the Gulf is different in terms of dependent numbers, threat, and security exposure. We decided to reduce the number of family members in Kuwait through a program of accelerated attrition. In the future, there will be only about 30 billets designated for accompanied tours. In Bahrain we are looking at reducing our numbers through gradual attrition matching the normal rotation cycles of personnel. We have decided to leave the dependent status as is in the UAE, Qatar, Oman, and Yemen, affecting approximately 65 family members.

After the Khobar Towers bombing, I also undertook a process to examine more closely the adequacy of our force protection measures for our troops around the world. On July 17 I sent a message directing all Commanders-in-Chief (CINCs) to look at force protection in their areas of responsibility and report back to me by August 1 on how best to deal with the rapidly escalating threat to U.S. forces. I urged them to be innovative in their approaches to dealing with the terrorist problem. As a minimum, I asked that they answer the following questions:

- Should our troops remain in all present locations?
- Should they be moved from urban areas?
- Is an adjustment required in dependent status?
- How much should force protection interfere with the mission?
- Is intelligence focused to deal with the terrorist threat?
- How can we work more effectively with host nations on force protection measures?

I have incorporated many of the recommendations and ideas from the CINCs in the force protection initiative the Department is undertaking. Each of the CINCs responded personally with detailed suggestions of additional force protection improvements that could be undertaken without compromising the mission. The CINCs suggestions fell into the following key categories:

- Establish location of forces as a critical factor in force protection considerations. Cross check with dependent security assessment.
- Tailor anti-terrorism training to increase situational awareness of deploying personnel.
- Provide more focused anti-terrorism intelligence to field units.
- Improve interchange with host nations on intelligence and security matters.

I have incorporated many of the recommendations and ideas in the force protection initiative the Department is undertaking. Terrorists will always search out and strike at the weakest link in our chain of defenses. Our goal is to find and strengthen those weak spots and we are doing just that.

FORCE PROTECTION VS. MISSION

The relocation of our forces in Saudi Arabia and the change in personnel assignment policies are just two examples of the need to rethink fundamentally our approach to force protection around the world. Prior to the Khobar Towers bombing, our force protection measures focused on incremental fixes to existing arrangements, rather than consideration of radical changes in force posture. Incremental fixes in force protection can always be trumped by attacks of greater magnitude.

To stay ahead of the threat, we now see that we must always put force protection up front as a major consideration with key other mission goals as we plan operations, and that that parity must be maintained throughout the operation. Changes in threat level must trigger fundamental reconsiderations of force protection and cause commanders to reexamine this issue as if they were designing a new mission. Moreover, commanders must be empowered to do this.

The task of protecting our forces would be easy if we were willing to abandon or compromise our missions, but that is not an option. We have global interests and global responsibilities. Those require our forces to be deployed overseas to protect our national security interests. And our troops cannot successfully complete their tasks if they are required to live in bunkers 24 hours a day.

How then can we accomplish our missions without compromising their success or abandoning them altogether? The answer is that we will require tradeoffs in other areas, such as cost, convenience, and quality of life. This is a tough answer for our men and women in uniform who will live in less comfortable surroundings and spend more time avoiding and defending against terrorism, and it is a tough answer for them and their families, who must experience the loneliness of unaccompanied tours. We will have to compensate for these changes and greater hardships in order to continue to maintain the superb quality force we have today.

Putting force protection up front as a major consideration along with other mission objectives around the world will require a fundamental change in the mind-set with which we plan and carry out operations. It also requires structural changes in the Department. Many of the initial actions we are taking are directed only in part at the Southwest Asia theater. They all have global implications.

COMMISSIONING OF DOWNING ASSESSMENT

On June 28, three days after the Khobar Towers bombing, I issued a charter for an assessment of the facts and circumstances surrounding the tragedy and appointed General Wayne A. Downing, United States Army (Retired), to head the assessment effort. I asked General Downing to give me a fast, unvarnished and independent look at what happened there and offer ideas on how we can try to prevent such a tragedy in the future. The final report was delivered to me on August 30.

General Downing has given me that unvarnished and independent review of the Khobar Towers bombing and a tough critique of past practices and attitudes. His report confirms my belief that we must make a fundamental change in our mind-set. On the whole, I accept General Downing's recommendations and I believe we can take effective action to deal with each of the problems identified in his comprehensive report. His conclusions have by and large validated the initiatives we have already launched, and many of his recommendations already have been implemented through the changes we have made. Where his recommendations have identified additional changes that should be considered, we have a process underway either to implement them or to put them on a fast track to decision. General Downing's report is an important contribution to changing our entire approach to force protection and provides evidence of the need for changes in the way we do business.

Annex (B) contains a detailed response to each recommendation included in the Downing report. We have taken the following actions in response to the principal recommendations regarding force protection in the report.

ISSUE DOD-WIDE STANDARDS FOR PROVIDING FORCE PROTECTION

DoD has maintained a variety of directives and standards related to force protection. These documents have been of great use to organizations and have served us well. However, as General Downing has indicated, the diversity of these documents, and their "advisory" rather than "directive" nature, may have caused confusion. In my judgment, this is largely a result of the continuing transition the Department is making under Goldwater-Nichols to joint operations under combatant commands. To correct this situation, I have revised and am reissuing this day DoD Directive 2000.12, "DoD Combating Terrorism Program." This new directive requires that the approaches previously set forth as suggestions in DoD Handbook O–2000.12-H be implemented as the DoD standard. In applying this standard, commanders and managers must take account of the mission, the threat, and specific circumstances. The new direc-

tive also implements other new initiatives I have identified elsewhere in this report.

GIVE LOCAL COMMANDERS OPERATIONAL CONTROL WITH REGARD TO FORCE PROTECTION MATTERS.

Under the traditional peacetime command and control arrangements, force protection is the responsibility of the CINC, through the service component commanders, to the local commanders in the field. In the U.S. Central Command (CENTCOM), whose area of responsibility includes Saudi Arabia, the service component commanders exercised operational control of deployed forces from their headquarters, including for force protection. But the Commander, Joint Task Force Southwest Asia (CJTF-SWA) exercised tactical control over forces in theater that are operating specific missions in support of Operation Southern Watch. Thus force protection responsibilities and tactical control were not in the same hands.

Following the attack on OPM/SANG in Riyadh last November, the Commander-in-Chief, U.S. Central Command (CINCCENT) gave additional responsibilities to the Commander, JTF-SWA, for coordination of force protection in the Kingdom of Saudi Arabia. Following the subsequent attack on Khobar Towers in June, CINCCENT has directed the Commander, CJTF-SWA, to assume full responsibility for force protection of all combatant forces deployed in support of Operation Southern Watch. With respect to force protection, CJTF-SWA now has authority and responsibility to establish policy, and directive authority to implement and enforce the CINCCENT force protection policies and directives. Tactical control and force protection are now in the same hands. Service component commanders continue to maintain operational control of combatant forces deployed in support of JTF-SWA. CENTCOM will also investigate the feasibility and advisability of establishing a CENTCOM forward headquarters that could assume responsibilities for all forces on the Arabian Peninsula. I have also directed all CINCs to review and make recommendations on similar command structure changes for force protection in their areas of responsibility.

The DoD directive I have issued establishing DoD-wide standards for providing force protection now requires that each CINC review the command arrangements for every Joint Task Force when it is established and periodically thereafter with regard to force protection responsibilities. The directive also requires that the CINCs report to me any decisions to vest operational control for force protection matters outside a Joint Task Force Commander and to detail the reasons why this decision has been made.

DESIGNATE THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AS THE PRINCIPAL ADVISOR AND THE SINGLE DOD-WIDE FOCAL POINT FOR FORCE PROTECTION ACTIVITIES. GENERAL DOWNING'S REPORT CORRECTLY RECOGNIZES THE NEED FOR A STRONGER CENTRALIZED APPROACH TO FORCE PROTECTION WITHIN DOD. THERE INDEED SHOULD BE A SINGLE INDIVIDUAL DESIGNATED AS RESPONSIBLE FOR ENSURING THAT OUR POLICIES WILL RESULT IN ADEQUATE FORCE PROTECTION MEASURES BEING TAKEN AND FOR AUDITING THE PERFORMANCE OF OUR UNITS.

Because force protection measures must be carried out by our uniformed military organizations, I have therefore designated the Chairman of the Joint Chiefs of Staff as the principal advisor and the single DoD-wide focal point for force protection activities. He will review and coordinate these activities in the context of broader national security policy matters with the Under Secretary of Defense for Policy. The Chairman will establish an appropriate force protection element within the Joint Staff to perform this function.

As the primary, high-level advocate for force protection, the Chairman will help ensure that this requirement is placed as a major consideration along with other mission goals as we plan military operations, and that focus on force protection is maintained throughout the operation. The Chairman will also ensure that adequate force protection is a top priority for every commander at every level within our military organization, and that commanders will be empowered to ensure that force protection measures respond to the unique situation on the ground. As the key military advisor to the President and the Secretary of Defense, the Chairman can also ensure that force protection receives a high priority in budgetary allocations. And as the representative of the joint forces, the Chairman is also in the position to ensure a joint and uniform approach to force protection throughout the Service components.

The instructions carrying out this recommendation are included in DoD Directive 2000.12 being issued today.

MOVE FORCE PROTECTION RESPONSIBILITIES FROM THE DEPARTMENT OF STATE TO THE DEPARTMENT OF DEFENSE WHERE POSSIBLE.

In some cases, the Department of State, rather than the Department of Defense, is responsible for the security of military forces overseas, including force protection. This division of responsibilities can result in different standards of force protection, as highlighted by the bombing of the OPM/SANG in Riyadh, in November 1995.

Immediately following that event, I directed that the Chairman create a DoD Anti-Terrorism Task Force to assess DoD anti-terrorism worldwide and to provide a report with recommendations to improve anti-terrorism readiness. The Task Force highlighted the bifurcated responsibilities for security of DoD personnel. In particular, combatant forces were under the authority of the CINCCENT, but U.S. military personnel assigned to OPM/SANG and USMTM were under the control of the U.S. Ambassador for security matters. The final report and recommendations, completed just days before the bombing of Khobar Towers, called for a clari-

fication of the division of responsibilities, including consideration of changes to the President's Letter to Chiefs of Mission.

Because the Department of State was responsible for security at OPM/SANG, the Secretary of State, in accordance with the law, created an Accountability Review Board to review the security procedures in effect at the time of the bombing. The Board's report also highlighted the bifurcation of responsibilities and noted it caused a confusion and a lack of clear guidance as to security responsibilities.

In light of that report, and the subsequent attack on Khobar Towers (a facility under the security cognizance of the regional CINC) DoD has, working closely with the Department of State, undertaken to realign security responsibilities on the Saudi Arabian Peninsula.

The Secretary of State and I have agreed that he should delegate force protection responsibility and authority to me for all DoD activities within the Arabian Peninsula that are not already assigned to, or otherwise under the command of, the CINCCENT. I will, in turn, delegate this responsibility to the CINCCENT. The only DoD elements that will remain under the security responsibility of the Chief of Mission will be the integral elements of the country team (i.e. the Defense Attach@ Office, the USMC Security Detachment, and the Security Assistance Offices that are located within or in close proximity to their respective U. S. Embassies, in Qatar, the UAE, Bahrain and Oman), those sensitive intelligence and counterintelligence activities that are conducted under the direction and control of the Chief of Mission/Chief of Station, and any DoD personnel detailed to other U.S. Government agencies or departments.

As force protection and anti-terrorism requirements are addressed in more detail by the other regional CINCs, similar realignments of force protection responsibility may need to be worked out with the Secretary of State.

This arrangement balances the requirement for protecting DoD forces with the overall mission of the U.S. Government overseas. The Ambassador must be in charge of all activities that have a direct impact on the conduct of our nation's foreign policy. However, in those high threat instances where the number of DoD forces in country assigned to the embassy exceeds the country team's ability to provide for their security, the regional CINC will be charged with ensuring their safety from terrorist attack.

IMPROVE THE USE OF AVAILABLE INTELLIGENCE AND INTELLIGENCE COLLECTION CAPABILITIES.

Passive protective measures are always important, but the real key to better, more effective force protection against terrorism is to take active measures against the terrorists. This brings me to another major action we are taking in Saudi Arabia—improving our intelligence capabilities. We do not want to simply sit and wait for terrorists to act. We want to seek them out, find them, identify them, and do what we can to disrupt or preempt any planned operation. The key to this is better intelligence.

In Saudi Arabia, the U.S. intelligence community was providing 24-hour a day coverage of terrorist and terrorist related activity. All of the available intelligence was widely distributed in theater.

This intelligence support for force protection was very good in some areas, sufficient in others, and lacking in at least one key area—that of providing tactical warning of impending attack.

There was a strong relationship between intelligence threat reporting and the theater security posture. The physical and personnel security enhancements that were in place at the time of the bombing were based on vulnerability analysis that came from general intelligence threat reporting. The linkage between intelligence reporting and the operational commander's action is critically important whether it involves intelligence threat information feeding physical security improvements or supporting target selection for precision weapons. In the case of the threat to U.S. forces in Saudi Arabia, the available intelligence clearly formed the basis for security planning and procedures. Intelligence reports drove the extensive security enhancements that were completed prior to the attack. We must not lose sight of the fact that U.S. forces in Saudi Arabia acted on the general threat intelligence available prior to the bombing and that information saved lives and injuries. We had intelligence and we acted on it, but we lacked the specificity necessary that would have made the critical difference in this incident. What was missing was the hard tactical warning of impending attack—the information we needed to thwart the operation before it reached fruition.

There is no doubt that we can always have better and more precise intelligence and we are continuously striving for that level of detail. I am reviewing the Department's ability to meet this long-term requirement and I have the active assistance of the Director of Central Intelligence in reviewing intelligence policies and capabilities to acquire better tactical threat information from all intelligence assets.

I am also taking steps to address General Downing's specific recommendations that we look at both how we make intelligence available and how we use it at small unit levels. I will work with CENTCOM and the Military Departments to implement those recommendations.

The goal is not only to have better intelligence collection, but to be better able to use it. We need to sort out the real and useful intelligence from the misinformation and disinformation that is also collected. One key to improved analysis at the Washington level is the Counter Terrorist Center, which is now receiving higher priority in the face of the higher threat. But even with improved analysis in Washington, we still have to make this intelligence available in a timely way to the forces threatened, and to combine national intelligence with the local intelligence being collected. Among the steps we are taking to improve intelligence in the Gulf region is augmentation of the Southern Watch fusion cell with counter-terrorism analysts. We developed the model for intelligence fusion cells in Bosnia. We are replicating this model now not only in the Gulf region, but around the world wherever our forces are deployed. A fusion cell combines, in a timely way, national strategic intelligence, which we gather around the world, with local or tactical intelligence. That allows us to quickly "fuse" together the global picture and the regional picture to help us see patterns, keep information from falling through the cracks, and to focus U.S. and

our allies' intelligence services on the same pieces of information at the same time. Equally important, it emphasizes the timely delivery of useful information to the tactical commander. We also are leveraging technology to build the tools we need to manage information better over the long term.

General Downing rightly identified that we must commit ourselves to sustained in-depth, long-term analysis of trends, intentions, and capabilities of terrorists. This is a systemic issue, not just in terrorism analysis, that we must address across the board in our intelligence analysis and reporting. In recognition of this systemic problem, the Department developed an initiative earlier this year for the intelligence community that will make a career-long investment in selective intelligence analysis to provide the skills and expertise the community needs to sustain proficiency against hard target problems.

ESTABLISH A WORKABLE DIVISION OF RESPONSIBILITIES ON FORCE PROTECTION MATTERS BETWEEN THE UNITED STATES AND HOST NATIONS.

General Downing correctly identified close and cooperative relationships with the host government as a key component of successful force protection programs in peacetime environments overseas. Without strong working relationships at all levels between U.S. and host nation officials, many force protection measures cannot be implemented.

Formal, structured relationships have their place and should be established where appropriate and possible. It is most important that those U.S. officials with responsibility for force protection, including all commanders responsible for activities in the field, work consciously to build personal relationships of trust and confidence with their foreign counterparts.

The Department is examining its personnel policies and practices to ensure that they support this important objective. For example, we are increasing tour length for additional key U.S. personnel in Saudi Arabia, including the commanders of the USAF Office of Special Investigations and Security Police allowing them to form deeper relationships with their counterparts.

RAISE THE FUNDING LEVEL AND PRIORITY FOR FORCE PROTECTION AND GET THE LATEST TECHNOLOGY INTO THE FIELD AND INTO THE DEPARTMENT OF DEFENSE.

Since force protection is an integral part of every military mission, the costs are dispersed among the various mission expenditures such as training, equipment, and operations and maintenance. As a consequence, force protection expenditures traditionally are not isolated and treated as separate budget items. Moreover, when we are faced with unique force protection requirements, we fund them on an ad hoc basis. For example, on August 9, after the Khobar Towers attack, Deputy Secretary White invoked the Food and Forage authority to pay for moving our forces in Saudi Arabia and improving security. And on August 23, I requested additional funding for FY 1996 and FY 1997 force protection and anti-terrorism requirements in Saudi Arabia and around the world.

However, with force protection now given a higher overall mission priority, we need to ensure force protection also is given a higher overall budget priority in the allocation of defense resources. To do so, we must be able to collect, consolidate and track our disparate expenditures for force protection, and measure our total expenditures against the requirements.

I have initiated a comprehensive review of future funding for force protection and I have designated force protection as a major issue for the FY 1998–2003 program review. All DoD components are scrubbing the latest budget estimates to ensure that no key projects related to force protection and anti-terrorism were omitted. Based on the responses received, the Program Review Group will assemble options to augment spending for force protection activities in the defense program. The Defense Resources Board is scheduled to review the proposals and make decision recommendations to me in October.

Based on these budget reviews, the standard procedures for preparation of the program budget will be amended to facilitate the review of force protection requirements in future budgets. First, the existing procedures will be used to emphasize the high priority I am placing on force protection and counter terrorism. The Joint Requirements Oversight Council will continue to evaluate force protection and provide recommendations to me. I will ask the CINCs to include force protection programs in the Integrated Priority Lists they submit to me. This process will insure that specific programs or program areas highlighted by the CINCs will be included in the Program Objective Memoranda prepared by the Services for the next defense program (FY 1999–2003). To enhance further this process, detailed program and budget displays will be required for all force protection and anti-terrorism programs to track funding patterns and to provide a solid basis for reviewing proposed force protection enhancements.

I have designated the Under Secretary of Defense for Acquisition and Technology as responsible for anti-terrorism technology development and asked him to expedite the adoption of new advanced technologies to meet force protection needs. This effort includes working with our allies, especially Israel and Great Britain, who have extensive experience in countering terrorism.

DETERMINE CULPABILITY OF INDIVIDUALS RESPONSIBLE FOR FORCE PROTECTION MATTERS IN THE CHAIN OF COMMAND.

On August 30, 1996, without prior review, I transmitted the Downing report to the Secretary of the Air Force for evaluation and appropriate action. Specifically, the Air Force was asked to examine issues raised in the report concerning how the Air Force organizes, trains, and equips in order to support forces deployed to combatant commands. Additionally, I deferred to Secretary Widnall on any issues regarding the adequacy of individual acts or omissions. In turn, the Secretary of the Air Force and Chief of Staff designated the Commander, 12th Air Force, as the disciplinary review authority and General Court-Martial Convening Authority regarding any actions or omissions by Air Force personnel associated with the Khobar Towers bombing. He is charged with reporting findings

and recommendations to the Secretary of the Air Force and Chief of Staff within 90 days.

Additionally, the Air Force is pursuing a top-to-bottom review of force protection policies that include procedures for physical security, training and equipment available for security police, intelligence support and personnel practices.

As we look at questions of accountability we also need to concentrate on learning lessons for the future. The U.S. military has a long, and admirable, record of self-examination and correction. That process must not be sacrificed. Nor must we lose sight of the fact that the bombing at Khobar Towers was not an accident. It was a heinous act of murder committed by persons as yet unknown.

SUMMARY AND CONCLUSIONS

We live in an era of great hope. Our hopes are nurtured by the emergence of democracies around the globe, by the growth of global trade relationships and by expansion of global communications.

Terrorism hangs over this bright future like a dark cloud, threatening our hope for a future of freedom, democracy and cooperation among all nations. It is the antithesis of everything America stands for. It is an enemy of the fundamental principles of human rights—freedom of movement, freedom of expression and freedom of religion. Perpetrators and sponsors of terrorist acts reject the rule of law and basic human decency. They seek to impose their will on others through acts of violence. Terrorism is a tool of states, a vehicle of expression for organizations and even a way of life for individuals. We can expect the terrorists to continue to seek out vulnerabilities and attack. Terrorists normally prey on the weak, but even militaries have vulnerabilities and present targets with high publicity value.

America has global interests and responsibilities. Our national security strategy for protecting those interests and carrying out those interests requires deployment of our forces to the far reaches of the globe. When terrorists aim their attacks at U.S. military forces overseas, they are attacking our ability to protect and defend our vital interests in the world. Our military presence in many areas provides the crucial underpinning that has made progress towards democracy and economic growth possible. We have the ability to project power far from our borders and influence events on a scale unmatched by any other country or organization. But as General Downing points out in his report, terrorism provides less capable nations, or even organizations, the means to project a particularly insidious form of power, even across borders, and contest U.S. influence.

But terrorists cannot win unless we let them. Sacrificing our strategic interests in response to terrorist acts is an unacceptable alternative. We cannot be a great power and live in a risk-free world. Therefore we must gird ourselves for a relentless struggle in which there will be many silent victories and some noisy defeats. There will be future terrorist acts attempted against U.S. military forces. Some will have tragic consequences. No force protection approach can be perfect, but the responsibility of leaders is to use our nation's resources, skills, and creativity to minimize them. We

must learn from the Khobar Towers tragedy, taking advantage of the U.S. military's tradition of strengthening itself out of adversity. The actions outlined in this report, the lessons articulated by General Downing and the ideas we have garnered from our military commanders around the world, will strengthen our defenses.

5. Department of Commerce

1999 Report on Foreign Policy Export Controls [1]

Partial text of the Bureau of Export Administration's Annual Report to Congress

FOREIGN POLICY EXPORT CONTROLS

1. INTRODUCTION

Export controls maintained for foreign policy purposes require annual extension according to the provisions of Section 6 of the Export Administration Act of 1979, as amended (the Act). Section 6(f) of the Act requires the Secretary of Commerce, through authority delegated by the President, to submit a report to Congress to extend the controls. Sections 6(b) and 6(f) of the Act require the report to include certain considerations [2] and determinations [3] on the criteria established in that section. This report complies with all the requirements set out in the Act for extending, amending or imposing foreign policy controls.

The Department of Commerce is acting under the authority conferred by Executive Order No. 12924 of August 19, 1994, and continued by notices of August 15, 1995, August 14, 1996, August 13, 1997 and August 13, 1998. Therein, the President, by reason of the expiration of the Act, invoked his authority, including authority under the International Emergency Economic Powers Act, to continue in effect the system of controls that had been maintained under the Act. Under a policy of conforming actions under the Executive Order to those under the Act, the Department of Commerce, insofar as appropriate, is following the provisions of Section 6 of the Act with regard to extending foreign policy controls.

With this report, the United States is extending all foreign policy controls in effect on December 31, 1998. The Department of Commerce is taking this action at the recommendation of the Secretary of State. As further provided by the Act, foreign policy controls remain in effect for replacement parts and for parts contained in goods subject to such controls. The controls administered in accordance with procedures established pursuant to Section 309(c) of the Nuclear Non-Proliferation Act of 1978 likewise remain in effect.

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[1] Pursuant to sections 6(b) and 6(f) of the Export Administration Act of 1979, as amended (Public Law 96–72 [S. 737], 93 Stat. 503). The full text of this report can be found on the World Wide Web at *http://www.bxa.doc.gov/PRESS/99/Repts/ForeignPolicyTOC.html*.

[2] Section 6(b)(2) requires the Department to consider the criteria set forth in Section 6(b)(1) when extending controls in effect prior to July 12, 1985. In addition, the report must include the elements set forth in Sections 6(f)(2)(A) (purpose of the controls); 6(j)(2)(C) (consultation with industry and other countries); 6(f)(2)(D) (alternative means attempted); and 6(f)(2)(E) (foreign availability).

[3] Section 6(b)(1) requires the Department to make determinations regarding the criteria set forth therein when extending controls in effect after July 12, 1985. The report must also contain the additional information required in Section 6(f)(2)(A), (C)-(E) (as set forth in endnote 1, supra.)

Each chapter that follows describes a particular category of foreign policy controls and delineates modifications that have taken place over the past year. One particular category of foreign policy controls has attracted additional attention in the last year. This is the use of unilateral sanctions by the United States. Since 1993, the United States has turned to sanctions with increasing frequency. More than half of the sanctions that the United States has applied since World War 11 have been levied in the past five years. While the United States has imposed broad unilateral economic sanctions only in the most egregious cases, such as North Korea, Iran, Cuba and Sudan, as the use of sanctions has increased, the effectiveness of sanctions and of the guidelines by which the United States applies them have come under increasing review.

Multilateral sanctions are generally more effective in enforcing international norms, advancing U.S. interests and defending U.S. values. Sanctions seem to be moderately to highly effective when the United States is able to garner the support and participation of a significant number of countries with economic and political weight to impose sanctions based on shared multilateral norms related to international peace, non-proliferation or prevention of a military buildup. Multilateral sanctions maximize international pressure on the offending state while minimizing damage to U.S. competitiveness. Examples of multilateral financial or trade sanctions which have been effective include Iraq, Libya, the Federal Republic of Yugoslavia, and South Africa.

However, there are also times when important national interests or core values are at stake, and the United States must show leadership by acting unilaterally in imposing sanctions on another State whose behavior warrants it. Unilateral sanctions against Cuba for the past 37 years, Iran for the past four years, as well as Sudan and Burma for the past two years, serve vital U.S. interests.

Unilateral sanctions are of varying degrees of effectiveness, depending on their goal and the nature of the country they are targeted against. In general, they are less likely to be effective than are multilateral sanctions. In today's interdependent, global economy, the ability of the United States to unilaterally deny certain trade or financial benefits to a target country is limited. Within the realm of unilateral sanctions, some measures which are not subject to foreign substitution such as denial of a U.S. quota, withdrawal of port privileges or landing rights, and actions in international financial institutions to withhold loans and assistance cannot be undone or overcome by the target country. Unilateral financial or trade sanctions, however, appear much less likely to advance United States goals.

Financial sanctions seem to be somewhat more effective than trade sanctions, given the central position of the United States in international finance. The United States plays a pivotal role in the international financial market, so the nonparticipation of U.S. financial institutions in a given transaction make it relatively more difficult for sanctioned countries to gain foreign financing. It is yet unclear whether the European Union's adoption of a single currency, the Euro, and the emergence of foreign financial centers will diminish the effect of U.S. financial sanctions. Increasing resort to

unilateral financial sanctions could, however, erode international confidence in the U.S. financial system and its international role.

Since there are few products or services for which the United States is the sole provider, the economic effectiveness of trade sanctions in most cases is measured in terms not of denial but of a potentially higher price to an end-user in a sanctioned country. Removing U.S. firms from the market could restrict supply, especially for large projects or high-technology items. For widely available items, such as trucks or personal computers, the large number of alternative suppliers probably results in no increase in purchase price for the sanctioned country. Trade sanctions could impose a cost on the sanctioned country by making it pay more for imports of less widely available items such as power plants, earth moving equipment, and commercial aircraft, and there has been some evidence that end-users in sanctioned countries may pay a higher price to acquire items from a foreign supplier who faces less competition for the sale as a result of sanctions. This potential increase in cost to the sanctioned country could be weighed against the cost to the U.S. in lost sales to provide one measure of the utility of sanctions.

Unilateral sanctions are not only less likely than multilateral sanctions to be effective, but they also impose costs on other U.S. interests ranging from conflicts with key allies to losses for American businesses and U.S. workers. With regard to the recently imposed unilateral trade sanctions on India and Pakistan, for example, exporters have provided examples of Indian companies who have announced they will no longer do business with U.S. companies and are designing out U.S. parts or components. This "designing out" phenomenon, as has been frequently noted, can damage the position of U.S. exporters beyond the loss of markets in the sanctioned country itself.

Most of the statistical data presented in the report are based on fiscal year export licensing statistics, unless otherwise noted. Commerce generates that data from the computer automated system it uses to process and track export license activity. Due to the tabulating procedures used by the system in accounting for occasional license applications that list more than one country or destination, the system has certain limitations as a means of gathering data. In addition, Commerce based the data in the report on values contained in export licenses it issued. Such values may not represent the values of actual shipments made against those licenses, because in some cases an exporter may ship only a portion of the value of an approved license.

HIGHLIGHTS OF 1998

EMBARGOED COUNTRIES AND ENTITIES:

On March 20, 1998, the President announced that the United States would take a number of steps to expand the flow of humanitarian assistance to the people of Cuba, and to help strengthen independent civil society and religious freedom in that country. On May 13, 1998, Commerce helped implement these measures of resuming licensing of direct humanitarian flights to Cuba and streamlining procedures for the sale of medicines and medical

equipment to Cuba. [Note: The President imposed the ban in 1996 and lifted it partially in 1998 for humanitarian flights.]

On July 29, 1998, Commerce revised the Entity List in Supplement 1 to Part 744 of the Export Administration Regulations (EAR) to add seven Russian entities under investigation by the Russian government for suspected export control violations involving weapons of mass destruction and missile technology. Exports or reexports of all items subject to the EAR to these entities require a license, and applications will be reviewed with a presumption of denial.

ENCRYPTION:

In July 1998, Secretary Daley announced that the Clinton Administration had finalized guidelines to allow the export of encryption under a license exception to 45 eligible countries. This affects encryption exports for the world's 100 largest banks and almost 70 percent of the world's financial institutions. On September 22, 1998, Commerce issued regulations implementing these changes.

On September 16, 1998, Vice President Gore announced an update to the encryption policy which was based on input from industry groups but consistent with the protection of national security and law enforcement interests. This update will permit the export of strong encryption when used to protect sensitive financial, health, medical, and business proprietary information in electronic form. The new export guidelines will further streamline exports of key recovery products and other recoverable encryption products. In particular, for exports of non-recovery 56-bit products, the new guidelines eliminate the requirement for a commitment and business plan to develop key recovery encryption.

COMMERCE CONTROL LIST:

In January 1998, Commerce published comprehensive changes to the Export Administration Regulations to implement the Wassenaar Arrangement's List of Dual-Use Goods and Technologies into the Commerce Control List (CCL). To simplify the classification process for exporters, Commerce also harmonized items on the CCL to conform to the European Union dual-use list and lists of other international control regimes to which the United States belongs. This January 1998 rule also imposed new requirements on exporters to report to Commerce exports of certain items made under the authority of certain license exceptions. BAA provides this information, excluding the exporter's name and dollar value of the export, to other participating countries to enhance international security and stability through the sharing of information. This rule also removed the ability for some Wassenaar Arrangement Very Sensitive List dual-use items to be exported from the United States without a license.

On July 14, 1998, the United States imposed an arms embargo on the Federal Republic of Yugoslavia (Serbia and Montenegro) in reaction to the use of excessive force by Serbian police forces against civilians in Kosovo and the acts of violence by the Kosovar Albanian extremists, consistent with United States obligations under United Nations Security Council Resolution 1160. Working

in concert with the Department of State, the Department of Commerce maintains new license requirements and a policy of denial on the export on arms-related items and "crowd control" items that could be used in support of terrorist activities or to repress civilian populations. "Crowd Control" items consist of all items already controlled for crime control reasons plus three new U.N.-based controls on water cannons (ECCN OA989), bomb detection equipment (ECCN 2A993) and explosives (ECCN IC998).

On December 15, 1998, Commerce notified Congress, via a Foreign Policy Report, on revisions to the Export Administration Regulations to strengthen controls on exports and reexports to Specially Designated Terrorists (STDS) and Foreign Terrorist Organizations (FTOs). A license is required for all exports and reexports by any person to SDTs and FTOs of items on the Commerce Control List (CCL) and for all exports and reexports by a U.S. person of an item subject to the EAR. License applications will be reviewed under a general policy of denial. The interim rule was published in the Federal Register on January 8, 1999.

On December 31, 1998, Commerce notified Congress, via a Foreign Policy Report, that the Department was expanding controls on firearms items based on the Organization of American States (OAS) Model Regulations for the Control of the International Movement of Firearms. These regulations are designed to harmonize import and export controls over the legal international movement of firearms and to establish procedures to prevent the illegal trafficking of firearms among OAS member countries. Commerce anticipates publication of the interim rule in the Federal Register in the first quarter of 1999.

Under these provisions, the Commerce will require a license for the export of certain firearms, including shotguns, and parts, buckshot shotgun shells and parts, shotgun shells and parts, and optical sighting devices for firearms to all OAS member countries, including Canada, to prevent illegal trafficking in firearms. The Commerce already requires a license for export of all these items to all OAS member countries for human rights reasons, with the exception of Canada. In support of the OAS Model Regulations, the Commerce imposed a Import Certificate requirement on the export to all OAS member countries of those items affected by the regulations. In general, Commerce will approve license applications for the export of firearms to OAS member countries if the application is supported by an Import Certificate. Commerce will deny applications that involve end uses linked to drug trafficking, terrorism, international organized crime, and mercenary and other criminal activities.

UNILATERAL NUCLEAR CONTROLS:

In January 1998, a major decontrol of nuclear items took effect with the liberalization of unilateral U.S. controls on exports of pipes, valves, cranes, and pipe fittings that are used in the non-nuclear, or "balance of plant" portion of civilian nuclear power plants. Before this liberalization took effect, the turbines and generators in the non-nuclear portion of nuclear power plants did not require a license for export, while the export of the pipes, valves, and related

equipment required to install them were subject to a license requirement.

On March 18, 1998, the President certified that China had complied with the nuclear nonproliferation conditions required for implementation of the 1985 U.S.-China Agreement for Peaceful Nuclear Cooperation and for lifting the 1989 Tiananmen Square Sanctions on nuclear technology exports to China. The certification allows the Commerce to approve the export of items to China controlled by the Department under the EAR, technology controlled by the Department of Energy (DOE) under 10 CFR part 810 and equipment and materials controlled by the Nuclear Regulatory Commission (NRC) under 10 CFR part 110. Lifting the sanctions had no direct effect on the Department's export control program. Items controlled for nuclear proliferation reasons still require a license and continue to be subject to interagency review by the Departments of Commerce, State, Energy, and Defense and the Arms Control and Disarmament Agency. The licensing process is the same as that accorded license applications for similar goods to other destinations.

LEGISLATIVE EVENTS:

In 1998, Commerce implemented provisions of the National Defense Authorization Act (NDAA) which require advance notification and post-shipment verification of exports or reexports of high performance computers above 2000 million theoretical operations per second (MTOPS) to end users in countries known in the EAR as Tier 3 countries (See Appendix IV). Exporters are required to submit notices to Commerce which are evaluated in conjunction with the Departments of Defense, Energy and State and the Arms Control and Disarmament Agency. If an agency raises an objection to the proposed export within ten days, the Commerce requires an export license; otherwise the exporter may ship. The Act also requires a post-shipment visit in each case, whether or not we required a license.

Signed into law on October 27, 1998, the International Religious Freedom Act of 1998 provides for the imposition of one or more diplomatic or economic sanctions against countries that have engaged in violations of religious freedom. The act also provides for the imposition of one or more economic sanctions against countries the President determines have engaged in or tolerated particularly severe violations of religious freedom. For such countries, the act also provides that the Commerce Department, with State Department concurrence, shall include on the Commerce Control List for reasons of crime control or detection and require export licenses for, items that are being used or are intended for use directly to carry out particularly severe violations of religious freedom. A general policy of denial for such items will apply to license applications to export to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights, pursuant to a determination under the Foreign Assistance Act.

In the 1998 National Defense Authorization Act, Congress mandated that all commercial communications satellites, including both those transferred by Presidential decision in 1992 and those trans-

ferred by Presidential decision in 1996, be returned to the U.S. Munitions List by March 15, 1999.

INDIA AND PAKISTAN:

President Clinton reported to the Congress on May 13th with regard to India and May 30th with regard to Pakistan his determinations that those non-nuclear weapon states had each detonated a nuclear explosive device. The President directed Department of Commerce to take the necessary actions to impose the sanctions described in section 102 (b)(2) of the Arms Export Control Act. On June 18, 1998, consistent with the President's directive, Commerce announced certain sanctions on India and Pakistan, as well as certain supplementary export control measures. On November 19, 1998, Commerce amended the EAR to codify the June announcement. Consistent with section 102 (b)(2) of the Arms Export Control Act, Commerce added § 742.16 to the EAR codifying a license review policy of denial for the export and reexport of items controlled for nuclear proliferation (N-P) and missile technology (MT) reasons to all end-users in India and Pakistan.

To supplement the sanctions of § 742.16, Commerce added certain Indian and Pakistani government, parastatal, and private entities determined to be involved in nuclear, missile, or conventional weapons activities to the Entity List in Supplement No. 4 to part 744 of the EAR. License requirements for these entities are set forth in the newly added § 744.11 and § 744.12. Exports and reexports of all items subject to the EAR to government, parastatal, and private entities listed for their involvement in nuclear or missile activities require a license. Exports and reexports of all items subject to the EAR having a classification other than EAR99 require a license to listed military entities. The license applications will be reviewed with a presumption of denial, with limited exceptions.

EXPORT CONTROL PROGRAM DESCRIPTION AND LICENSING POLICY

This part defines the export controls maintained for a particular foreign policy purpose that are imposed or extended for the year 1999. The licensing requirements and policy applicable to a particular control are described in this section.

ANALYSIS OF CONTROL AS REQUIRED BY SECTION 6(F) OF THE ACT

This part outlines the considerations or determinations, as required by Section 6(f)(2) of the Act, on the purpose of the control, criteria, alternative means, consultation efforts, and foreign availability. For each control program, the Department's conclusions are based on the following required criteria:

A. The Purpose of the Control

This section provides the foreign policy purpose and rationale for each particular control.

B. Considerations and/or Determinations of the Secretary of Commerce

1. *Probability of Achieving the Intended Foreign Policy Purpose.* This section considers or determines whether such controls are likely to achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology subject to control, and whether the foreign policy purpose can not be achieved through negotiations or other alternative means.

2. *Compatibility with Foreign Policy Objectives.* This section considers or determines whether the controls are compatible with foreign policy objectives of the United States and with overall U.S. policy toward the country or the proscribed end-use subject to the controls.

3. *Reaction of Other Countries.* This section considers or determines whether the reaction of other countries to the extension of such export controls by the United States is likely to render the controls ineffective in achieving the intended foreign policy purpose or to be counterproductive to other U.S. foreign policy interests.

4. *Economic Impact on United States Industry.* This section considers or determines the effect of the controls on the export performance of the United States, its competitive position in the international economy, the international reputation of the United States as a reliable supplier of goods and technology, or the economic well-being of individual U.S. companies and their employees and communities exceeds the benefit to U.S. foreign policy objectives.[4]

5. *Enforcement of Control.* This section considers or determines the ability of the United States to enforce the controls. Some enforcement problems are common to all foreign policy controls.[5] Others are associated with only one or a few controls. Each individual control has been assessed to determine if it has presented, or is expected to present, an uncharacteristic enforcement problem.

C. Consultation with Industry

This section discusses the results of consultations with industry leading up to the extension or imposition of controls. It also includes comments provided to Commerce by the Technical Advisory Committees (TACs); such comments are attributed to the TAC unless otherwise indicated.

D. Consultation with Other Countries

This section reflects consultations on the controls with countries that cooperate with the United States on multilateral controls, as well as with other countries as appropriate.

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[4] Limitations exist when assessing the economic impact of certain controls because of the unavailability of data or because of the prevalence of other factors, e.g., currency values, foreign economic activity, or foreign political regimes, which may restrict imports of U.S. products more stringently than the United States restricts exports.

[5] When controls are implemented without the imposition of corresponding restrictions by other countries, it is difficult to guard against reexports from third countries to the target country, to secure third country cooperation in enforcement efforts, and to detect violations abroad and initiate proper enforcement action. The relative ease or difficulty of identifying the movement of controlled goods or technical data is also a factor. Controls on items that are small, inexpensive, easy to transport or conceal, or that have many producers and end-users, are harder to enforce.

E. Alternative Means

This section specifies the nature and results of any alternative means attempted to accomplish the foreign policy purpose, or the reasons for extending the controls without attempting any such alternative means.

F. Foreign Availability

This section considers the availability from other countries of goods or technology comparable to those subject to the proposed export control. It also describes the nature and results of the efforts made pursuant to Section 6(h) of the Act to secure the cooperation of foreign governments in controlling the foreign availability of such comparable goods or technology. In accordance with the Act, foreign availability considerations do not apply to export controls in effect prior to June 12, 1985, to controls maintained for human rights and anti-terrorism reasons, or to controls in support of the international obligations of the United States.

GENERAL COMMENTS FROM INDUSTRY

On October 13, 1998, the Department of Commerce, via the Federal Register, solicited comments from Industry on the effectiveness of export policy. In general, the comments indicated that Industry does not feel that unilateral sanctions are effective. A more detailed review of the comments is available in Appendix I.

4. Anti-Terrorism Controls (Section 742.8, 742.9, 742.10, 744.10)

EXPORT CONTROL PROGRAM DESCRIPTION AND LICENSING POLICY

These controls reflect U.S. opposition to acts of international terrorism supported by a foreign government.

Pursuant to Section 6(j) of the Export Administration Act, the Secretary of State has designated seven countries Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria as nations whose governments have repeatedly provided support for acts of international terrorism. As noted below, Commerce controls multilateral list items destined to military or other sensitive end-users in designated terrorist countries for anti-terrorism reasons under Section(j) of the Act. Commerce also controls additional items to Iran, Sudan and Syria for anti-terrorism reasons under the general authority of Section 6(a) of the Act.

The Department of the Treasury maintains comprehensive trade embargoes against Cuba, Libya, Iran, Iraq, North Korea and Sudan under other provisions of law. To avoid duplicate licensing requirements, Commerce and Treasury have allocated licensing responsibilities for exports and reexports to these countries. Broadly speaking, Commerce has licensing responsibility for exports and reexports to Cuba and North Korea and for reexports to Libya; Treasury has licensing responsibilities for exports and reexports to Iran and Iraq. Both Treasury and Commerce maintain license requirements for exports and reexports to Sudan. This report does not describe the restrictions administered by Treasury against Iran, Iraq and Sudan. See chapter 5 for a more complete discussion of controls on Cuba and North Korea and chapter 6 for a description of controls on Libya.

This chapter describes the anti-terrorism controls that apply to all designated terrorist countries, but focuses on the additional anti-terrorism controls maintained against Iran, Syria and Sudan under the EAR. This chapter also summarizes briefly a revision of the EAR which prohibits exports and certain reexports to Specially designated Terrorists and Foreign Terrorist Organizations, wherever located.

On December 15, 1998, Commerce notified Congress, via a Foreign Policy Report, on revisions to the Export Administration Regulations to strengthen controls on exports and reexports to Specially Designated Terrorists (SDTs) and Foreign Terrorist Organizations (FTOs). A license is required for all exports and reexports to SDTs and FTOs by any person of items on the Commerce Control List (CCL) and for all exports and reexports by a U.S. person of an item subject to the EAR. License applications will be reviewed under a general policy of denial. The interim rule was published in the Federal Register on January 8,1999.

EAA Section 6(i) determinations: The Secretary of State has determined that Libya (in 1979), Syria (1979), Cuba (1982), Iran (1984)[6], North Korea (1988), Iraq (1990) and Sudan (1993)[7] are countries whose governments have repeatedly provided support for acts of international terrorism.

Effective December 28, 1993, the Acting Secretary of State determined the United States would control five categories of dual-use items subject to multilateral controls to certain sensitive government end-users under Section 6(j) of the Act, since these items meet the criteria set forth in Section 6(j)(1)(B). Specifically, the Acting Secretary determined that these items, when exported to military, police or intelligence organizations or to other sensitive end-users in a designated terrorist country, could make a significant contribution to that country's military potential or could enhance its ability to support acts of international terrorism. These anti-terrorism controls apply to all designated terrorist-list countries.

The Acting Secretary also advised that the United States should continue to control other items not specifically controlled under Section 6(j) for general foreign policy purposes under Section 6(a) to terrorist-list countries, and that the United States will continue to review the export of such items prior to approval to evaluate whether, under the circumstances of the application, the requirements of Section 6(j) apply. These measures are described in detail below.

Paragraph A below reflects the Section 6(j) controls; paragraphs (B), (C) and (D) reflect the Section 6(a) controls on Iran, Sudan, and Syria.

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[6] On August 19, 1997, the President issued Executive Order 13059 to confirm that the embargo on Iran prohibits all trade and investment activities by United States persons, wherever located, and to consolidate in one Order the various prohibitions previously imposed to deal with the national emergency declared on March 15, 1995. Executive Order 12957 of March 5, 1995, prohibits U.S. persons from entering into contracts for the financing or the overall management or supervision of the development of petroleum resources located in Iran or over which Iran claims jurisdiction. Executive Order 2959 of May 6, 1995, imposed a comprehensive trade and investment embargo on Iran.

[7] On November 3, 1997, the President issued Executive Order 13067, which imposed an embargo on Sudan, effective November 4, 1997. The President delegated to the Treasury Department the authority to promulgate regulations to administer the embargo on Sudan.

A. The Acting Secretary of State determined, effective December 28, 1993, that the export of certain categories of goods and technologies when destined to military, police, intelligence entities and other sensitive end-users, as determined by the Department of State, in any country designated under Section 6(j) of the Act as a country that has repeatedly provided support for acts of international terrorism, "could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism." As a result of this determination, the Secretaries of State and Commerce will notify Congress thirty days prior to the issuance of any license for the export of any item from the five categories listed below to sensitive end-users in the terrorist countries.

Pursuant to Section 6(j) of the Act, Commerce requires a license for the export of the following items to military or other sensitive end-users in designated terrorist countries:

1) All items subject to national security controls, except computers with a performance level of less than 500 million theoretical operations per second (MTOPS) (Wassenaar Arrangement);[8]

2) All items subject to chemical and biological weapons proliferation controls (Australia Group);

3) All dual-use items subject to missile-proliferation controls (Missile Technology Control Regime);

4) All items subject to nuclear weapons-proliferation controls (Nuclear Referral List); and

5) All military-related items (items controlled by Commerce Control List (CCL) entries ending with the number 18).

B. Pursuant to Section 6(a) of the Act, the Commerce requires a license for the categories of items listed below for Iran, Sudan, and Syria to promote U.S. foreign policy goals. Sudan (as of November 4, 1997) and Iran (as of May 7, 1995) are also subject to comprehensive trade and investment embargoes administered by the Department of the Treasury under the authority granted by the President under IEEPA.[9] The Department of State reviews license applications for items controlled under Section 6(a) of the Act before approval to determine whether the requirements of Section 6(j) apply. If the Secretary of State determines that the particular export "could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism," Commerce and State will notify the appropriate congressional committees thirty days before issuing a license. The categories of items controlled under Section 6(a) are as follows:

- Categories of items listed in paragraph A to non-military or non-sensitive end-users
- Aircraft, Including Helicopters, Engines and Parts
- Heavy Duty On-Highway Tractors
- Off-Highway Wheel Tractors (>10 tons)
- Cryptographic, Cryptanalytic and Cryptologic Equipment
- Navigation, Direction Finding and Radar Equipment

[8] The Department of Commerce requires a license under Section 6(a) of the Act for all computers going to Iran, Sudan or Syria with a CTP of 6 MTOPS or above.

[9] Ibid.

- Electronic Test Equipment
- Mobile Communications Equipment
- Acoustic Underwater Detection Equipment
- Vessels and Boats (Including Inflatable Boats)
- Marine and Submarine Engines
- Underwater Photographic Equipment
- Submersible Systems
- CNC Machine Tools
- Vibration Test Equipment
- Certain Digital Computers (CTP≥)
- Certain Telecommunications Transmission Equipment
- Certain Microprocessors (Clock Speed >25 MHZ)
- Certain Semiconductor Manufacturing Equipment
- Software Specially Designed for CAD/CAM IC Production
- Packet Switches
- Software Specially Designed for Air Traffic Control Applications
- Gravity Meters (Static Accuracy <100 Microgal or with Quartz Element)
- Certain Magnetometers with Sensitivity <1.0 nt rms per root Hertz
- Certain Fluorocarbon Compounds for Cooling Fluids for Radar and Supercomputers
- High-Strength Organic and Inorganic Fibers
- Certain Machines for Gear-Cutting (Up to 1.25 Meters)
- Certain Aircraft Skin and Spar Milling Machines
- Certain Manual Dimensional Inspection Machines (Linear Positioning Accuracy ±3+L/300)
- Robots Employing Feedback Information in Real Time
- Explosive device detectors, used in airports

C. Exports of the following additional items to Iran and Sudan are subject to a license requirement under the Export Administration Regulations (EAR) for foreign policy reasons:

- Large Diesel Engines (>400 hp)
- Scuba Gear
- Pressurized Aircraft Breathing Equipment

D. Exports of the following additional items to Iran are subject to a license requirement under the EAR for foreign policy reasons:

- Portable Electric Power Generators

E. Licensing Policy

1. The Commerce has a policy of denial for all items controlled for national security or foreign policy reasons that require a license for export to Iran. All exports and certain specified reexports are also subject to the comprehensive trade and investment embargo, which the Department of the Treasury administers.

2. Pursuant to Executive Order 13067 of November 3, 1997 (effective November 4, 1997), exports and reexports to Sudan are subject to comprehensive trade restrictions administered by the Department of the Treasury. The Commerce maintains a general policy of denial for items requiring a license to Sudan.

3. Commerce will generally deny items subject to chemical and biological weapons proliferation controls proposed for export to Sudan.

4. Commerce will general deny military-related items controlled for national security reasons proposed for export to Sudan.

5. Commerce will generally deny items controlled for missile proliferation reasons proposed for export to Sudan.

6. Commerce will generally deny all aircraft, helicopters, engines and related spare parts and components proposed for export to Sudan.

7. The Commerce will generally deny cryptographic, cryptanalytic and Cryptologic items proposed for export to Sudan.

8. Commerce will generally deny explosive device detectors controlled under ECCN 2A993 proposed for export to Sudan.

9. Commerce will generally deny all other controlled items destined for military end-users or end-use proposed for export to Sudan.

10. Commerce will generally deny applications for export to Syria of national security-controlled items if the export is destined to a military or other sensitive end-user or end-use. Commerce will consider applications for other end-users or end-uses in Syria on a case-by-case basis.

11. Commerce will generally deny all items subject to chemical and biological weapons (CBS) proliferation controls proposed for export to Syria.

12. Commerce will generally deny applications for export to Syria of all items subject to missile technology controls.

13. Commerce will generally deny applications for export to Syria of military-related items (CCL entries ending in the number 18).

14. Commerce will generally deny applications to export Nuclear Referral List items to military end-users in Syria. Commerce will consider applications for export of such items to civilian end-users on a case-by-case basis.

15. There is a presumption of denial for applications for export to military end-users and end-uses in Syria of other items. For other end-users and end-uses in Syria, Commerce will review license applications on a case-by-case basis.

16. Commerce will consider applications for export and reexport to Syria on a case-by-case basis if they meet the following conditions:

a. the transaction involves the reexport to Syria of items where Syria was not the intended ultimate destination at the time of original export from the United States, provided that the export from the United States occurred prior to the applicable contract sanctity date;

b. the U.S. content value of foreign-produced commodities is 20 percent or less; or

c. the commodities are medical equipment.

17. Applicants wishing to have contract sanctity considered in reviewing their applications must submit adequate documentation demonstrating the existence of a contract that predates the imposition or expansion of controls on the item(s) intended for export.

ANALYSIS OF CONTROL AS REQUIRED BY SECTION 6(F) OF THE ACT

A. THE PURPOSE OF THE CONTROL

The controls effectively distance the United States from nations that have repeatedly supported acts of international terrorism. Further, the controls demonstrate the firm resolve of the United States not to conduct unrestricted export trade with nations or entities that do not adhere to acceptable norms of international behavior. The licensing mechanism provides the United States with the means to control any U.S. goods or services that might contribute to the military potential of designated countries and to limit the availability of such goods for use in support of international terrorism.

Iran. These controls respond to continued Iranian sponsorship of terrorism. The purposes of the controls are to restrict equipment that would be useful in enhancing Iran's military or terrorist-supporting capabilities, and to address other U.S. foreign policy concerns, including human rights, non-proliferation and regional stability.

The controls also allow the United States to prevent shipments of U.S.-origin equipment for uses that could pose a direct threat to U.S. interests. Iran continues to support groups that practice terrorism, including terrorism to disrupt the Middle East Peace Process. By restricting items with military use, the controls demonstrate the resolve of the United States not to provide any direct or indirect military support for Iran and to support other U.S. foreign policy concerns.

Syria. Although there is no evidence of direct Syrian Government involvement in the planning or implementing of terrorist acts since 1986, Syria continues to provide support and safe haven to groups that engage in terrorism. The groups include the Popular Front for the Liberation of Palestine General Command; Hamas; Hizballah; the Abu Nidal Organization; the Popular Front for the Liberation of Palestine; the Democratic Front for the Liberation of Palestine; the Japanese Red Army; the Kurdistan Workers Party (PKK); DHKP/C (formerly known as Dev Sol); and the Palestinian Islamic Jihad. The trade controls reflect U.S. opposition to Syria's support and safe-haven to terrorist groups and prevent a significant U.S. contribution to Syria's military capabilities.

Sudan. Evidence indicates that Sudan allows the use of its territory as sanctuary for terrorists including the Abu Nidal Organization, Hizballah, Hamas, Palestinian Islamic Jihad and components of the Usama bin Ladin organization. Safe houses and other facilities used to support radical groups exist in Sudan with the apparent approval of the Sudanese Government's leadership. Further, some extremists who commit acts of sabotage in neighboring countries receive training in Sudan. The embargo and the export controls demonstrate U.S. opposition to Sudan's support for international terrorism, while restricting access to items that could make a significant contribution to Sudan's military capability or ability to support international terrorism.

Specially Designated Terrorists (SDT) and Foreign Terrorist Organizations (FTO). The purpose of the new regulation is to further the general counterterrorism policy of the United States by expand-

ing restrictions on exports and reexports of dual-use items to SDT and FTO, wherever located. These new controls will enable Commerce to use its enforcement mechanisms to investigate supplies to such entities of U.S.-origin goods and technology and to use its resources to increase public awareness of U.S. counterterrorism measures.

B. CONSIDERATIONS AND/OR DETERMINATIONS OF THE SECRETARY OF COMMERCE

1. Probability of Achieving the Intended Foreign Policy Purpose. Although widespread availability of comparable goods form foreign sources greatly limits the economic effect of these controls, they do restrict access by these countries and persons to U.S.-origin commodities, technology and software, and demonstrate the determination of the United States to oppose and distance itself from acts of international terrorism. In extending controls toward Iran, Syria and Sudan, the Secretary has determined that they are likely to achieve the intended foreign policy purpose.

Iran. The controls on Iran restrict its access to specified items of U.S.-origin that could be used to threaten U.S. interests. The United States has sought, and will continue to seek, the cooperation of other countries in cutting off the flow of military and military-related equipment to Iran.

Sudan. The controls on Sudan affirm the commitment of the United States to oppose international terrorism by limiting Sudan's ability to obtain and use U.S.-origin items in support of terrorist or military activity. These controls send a clear message to Sudan of strong U.S. opposition to its support for terrorist groups.

Syria. These controls are an important means of demonstrating U.S. resolve by limiting Syria's ability to obtain U.S.-origin items that could be used to support terrorist activities or contribute significantly to Syria's military potential. Although other nations produce many of the items subject to U.S. anti-terrorism controls, this does not obviate the need to send a strong signal to the Syrian Government of U.S. disapproval of its support for groups involved in terrorism.

Specially Designated Terrorists (SDT) and Foreign Terrorist Organizations (FTO): The Secretary of Commerce has determined that the SDT and FTO controls are likely to achieve their intended foreign policy objectives of the United States. Imposing a license requirement under the EAR on both exports and reexports to SDT and FTO and enabling the Commerce Department to enforce these controls will further the policy of counterterrorism of the United States.

2. Compatibility with Foreign Policy Objectives. In extending these controls, the Secretary determined that they are compatible with the foreign policy objectives of the United States toward nations and persons who support terrorism. They are also compatible with overall U.S. policy toward Iran, Sudan, Syria, FTOs and SDTS. In addition, the controls are consistent with U.S. efforts to restrict the flow of items that these countries could use for military or terrorist purposes.

3. Reaction of Other Countries. Most other countries are generally supportive of U.S. efforts to fight terrorism and the stop pro-

liferation of weapons of mass destruction in countries of concern. However, almost none have imposed embargoes similar to those imposed by the U.S. for civil goods. One aspect of U.S. controls—their extraterritorial application—has excited opposition in may of our major trading partners, including some close allies and has become a point of contention with EU countries. This reaction to extraterritorial application has had a counterproductive effect as foreign firms design out U.S. components or cite the lack of their own national sanctions as a marketing tool. In some instances, foreign firms are instructed by their governments to ignore U.S. reexport controls as extraterritorial.

Iran. Regarding the controls on specific product categories, other countries share the U.S. concern over Iran's support of terrorism, human rights abuses, and attempts to acquire weapons of mass destruction. The thirty-three members of the Wassenaar Arrangement on Conventional Arms and Dual-Use Goods and Technologies (including the United States) have recognized Iran as a country whose behavior is a cause of concern. Most other nations, however, do not have as stringent a policy of denial for commercial goods as does the United States and Iran's trade partners include Germany, Japan, the United Kingdom and many other OECD nations.

Sudan. The United States imposed these controls (and the subsequent embargo) in response to credible evidence that Sudan assists international terrorist groups. The President imposed the embargo after finding that Sudan has continued to support international terrorism, destabilized neighboring governments and violated human rights. The United States has consulted with key allies and urged them to take all possible measures to convince Sudan to halt its support for terrorism. Some countries have shown their disapproval of Sudan's support for terrorism. For example, the Organization of African Unity (OAU), in an unprecedented action criticizing a member, passed a resolution in September 1995 calling on Sudan to extradite to Ethiopia three suspects charged with the June 1995 assassination attempt against President Mubarak of Egypt. In 1996, the United Nations Security Council adopted three resolutions reaffirming the OAU resolution, calling on Sudan to desist from supporting terrorism, and imposing diplomatic and travel sanctions.

Syria. The United States maintains controls in response to Syria's lack of concrete steps against international terrorist groups that maintain a presence in Syria and Syrian controlled areas of Lebanon.

Specially Designated Terrorists (SDT) and Foreign Terrorist Organizations (FTO): The Secretary has determined that the reaction of other countries to these controls is not likely to render the controls ineffective in achieving their intended foreign policy purpose or be counterproductive to U.S. foreign policy interests. A number of other countries recognize the need to restrict exports and reexports of items that could contribute to terrorist activities.

4. *Economic Impact on United States Industry*

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Specially Designated Terrorists (SDT) and Foreign Terrorist Organizations (FTO): The Secretary has determined that the economic impact of these controls is likely to be minimal. The Depart-

ment of Treasury already prohibits the U.S. persons from engaging in transactions involving SDT, which include the making or receiving of any contribution of funds, goods or services to or for the benefit of such persons. Treasury also requires U.S. financial institutions to block all financial transactions involving the assets of FTO within the possession or control of U.S. financial institutions. This new rule imposes license requirements on exports and reexports by U.S. persons to designated FTO, and new license requirements on non-U.S. persons who wish to export from third countries items subject to the EAR on the Commerce Control List to SDT or FTO. Commerce anticipates that the additional burden this regulation will impose on U.S. industry will be negligible.

5. *Enforcement of Control.* In general, unauthorized reexports of unilaterally controlled goods to these destinations is a continuing enforcement concern in this area and one which the U.S. is very hard pressed to prevent, absent an embargo imposed by our major trading partners in the European Union and Asia. The large number of items exported in normal trade to other countries—including some aircraft items and consumer goods that have many producers and end-users around the world create procurement opportunities for brokers, agents, and front companies working for these countries. In addition, differences in export laws and standards of evidence for violations also complicate law enforcement cooperation between countries. Control over direct exports to Iran are aided by the general negative public perception of the country. In the case of Sudan, the United States has a limited number of direct exports and reexports of controlled items to track which eases any enforcement problems. In regard to SDT and FTO, Commerce recognizes that enforcement of these controls will require special coordination with other countries to help identify certain items subject to the EAR that may be reexported to SDT and FTO. Because certain persons on the SDT FTO lists are well-known and because the U.S. public generally supports U.S. counterterrorism policies, Commerce expects that the majority of U.S. industry will cooperate with enforcement efforts.

Commerce views these controls as a key enforcement target, using regular outreach efforts to keep businesses informed of concerns. Visits to verify end-use and end-users of U.S. commodities and other programs to maintain a strong enforcement effort. Commerce is also moving aggressively to develop a strong program to deal with procurement by or for terrorist groups. This program includes enhanced agent training, development of a targeted outreach program to familiarize U.S. business with concerns, and close cooperation with lead agencies working terrorism issues.

C. CONSULTATION WITH INDUSTRY

On October 13, 1998, the Department of Commerce, via the Federal Register, solicited comments from Industry on the effectiveness of export policy. In general, the comments indicated that Industry does not feel that unilateral sanctions are effective. A more detailed review of the comments is available in Appendix I.

Commerce has also received comments from the President's Export Council and the Regulations and Procedures Technical Advi-

sory Committee regarding streamlining the Commerce Control List unilateral anti-terrorism entries.

D. CONSULTATION WITH OTHER COUNTRIES

The United States has also consulted with other nations regarding Iran and Sudan's support for terrorism, as well as their dismal human rights record. The United States has provided specific information to interested countries on the justification for designating Sudan a state sponsor of terrorism and urged them to do what they can to influence Sudan's behavior favorably.

E. ALTERNATIVE MEANS

The United States has taken a wide range of diplomatic, political, and security-related steps, in addition to economic measures such as export controls, in an effort to persuade countries supporting terrorism to drop their backing for terrorist activities. The exact combination has varied according to circumstances and judgments as to the best approaches at a particular time. International fora, G–7/8 meetings and summits are all used as opportunities to multi-lateralize export controls on states which support terrorism.

F. FOREIGN AVAILABILITY

The foreign availability provision does not apply to items determined by the Secretary of State to require control under Section 6(j) of the Act.[10] Cognizant of the value of such controls in emphasizing the U.S. position toward countries supporting international terrorism, Congress specifically excluded them from foreign availability assessments otherwise required by the Act. However, the Department has considered the foreign availability of the items controlled to terrorist-designated countries under Section 6(a). For Syria and Iran, there are numerous foreign sources for commodities similar to those subject to these controls. While most of Sudan's imports are low-technology items for which foreign sources exist, the poor health of Sudan's economy and thus its inability to import these goods makes foreign availability less of an issue.

5. *Embargoed Countries and Entities (Part 746)*

EXPORT CONTROL PROGRAM DESCRIPTION AND LICENSING POLICY

The United States maintains comprehensive economic embargoes against Cuba, Iran, Iraq, Libya, North Korea and Sudan. (These are six of the seven countries designated by the Secretary of State as state sponsors of international terrorism.) The United States also maintains arms embargoes on Liberia, Rwanda, Somalia and the Federal Republic of Yugoslavia (Serbia and Montenegro) and an arms and other commodity embargo on UNITA (in Angola).

On July 14, 1998, the United States imposed an arms embargo on the Federal Republic of Yugoslavia (Serbia and Montenegro) in reaction to the use of excessive force by Serbian police forces

[10] Provisions pertaining to foreign availability do not apply to export controls in effect before July 12, 1985, under sections 6(i) (International Obligations), 6(j) (Countries Supporting International Terrorism), and 6(n) (Crime Control Instruments). See the Export Administration Amendments Act of 1985, Public Law 99–64, section 108(g)(2), 99 Stat. 120, 134–35. Moreover, sections 6(i), 6(j) and 6(n) require that controls be implemented under certain conditions without consideration of foreign availability.

against civilians in Kosovo and the acts of violence by the Kosovar Albanian extremists and in compliance with United States obligations under United Nations Security Council Resolution 1160. Supplementing the arms ban maintained by the Department of State, the Department of Commerce maintains new license requirements and a policy of denial on the export on arms-related items and "crowd control" items that could be used in support of terrorist activities or to repress civilian populations. "Crowd Control" items consist of all items already controlled for crime control reasons plus three new U.N.-based controls on water cannons (ECCN OA989), bomb detection equipment (ECCN 2A993) and explosives (ECCN lC998).

The Department of Commerce and the Department of the Treasury jointly administer the trade embargoes against Cuba and North Korea, under the Trading With the Enemy Act of 1917, the Cuban Democracy Act of 1992, and other statutes. Commerce licenses U.S. exports and reexports to both countries; Treasury licenses travel by U.S. persons to Cuba and North Korea, and financial transactions by U.S. persons with those countries.

The Department of the Treasury administers the embargoes against Iran, Iraq, Libya, Sudan and UNITA in Angola under the International Emergency Economic Powers Act (IEEPA) and, in some cases, the United Nations Participation Act. Commerce maintains comprehensive restrictions against Iran, Iraq, Libya and Sudan, and exercises licensing responsibility for exports and reexports to Sudan and reexports to Libya. Treasury has licensing responsibility for exports of arms-related and other specific commodities to UNITA in Angola; Commerce licenses such items to non-UNITA entities in Angola. Commerce maintains comprehensive export and reexport controls against Libya and exercises licensing responsibility for reexports to Libya, which are discussed in Chapter 6 of this report.

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The Department of Commerce and other agencies formed an interagency group to consider export requests made in conjunction with the visit to Cuba of Pope John Paul 11 in January of 1998. The United States considered such license requests on a case-by-case basis, consistent with existing regulations and the humanitarian needs of the Cuban people. Exceptions to the Presidential ban on direct flights from the United States to Cuba were also considered on a case-by-case basis if in conjunction with the Pope's visit.

More recently, the President on March 20, 1998 announced that the United States would take a number of steps to expand the flow of humanitarian assistance to the people of Cuba, and to help strengthen independent civil society and religious freedom in that country. Commerce implemented measures by resuming licensing of aircraft for direct humanitarian flights to Cuba, and streamlining procedures for the sale of medicines and medical equipment to Cuba.

The resumption of direct humanitarian cargo flights enables assistance to reach the Cuban people more expeditiously at a reduced cost. The United States requires a license for all aircraft bound on such flights that do not qualify under Export Administration Regu-

lation (EAR) License Exception AVS. Commerce reviews license applications involving flights for humanitarian reasons on a case-by-case basis. The United States has also streamlined its procedures for exporting medicines and medical equipment to Cuba, either for sale or donation and reduced license processing time. Commerce is taking steps to facilitate compliance with the on-site verification and monitoring requirement for medical sales and certain donations to Cuba. On-site monitors in Cuba can include, but are not limited to, representatives of the license applicant, religious or charitable groups, western diplomats and international nongovernmental organizations.

The following paragraphs outline existing licensing policies for Cuba and North Korea:

A. The Department of Commerce requires a license for export to Cuba and North Korea of virtually all commodities, technology and software, except:

- technology generally available to the public and informational materials;
- some types of personal baggage, crew baggage, vessels and certain aircraft on temporary sojourn, ship stores (except as prohibited by the CDA to Cuba) and plane stores under certain circumstances;
- certain foreign-origin items in transit through the United States;
- shipments for U.S. Government personnel and agencies;
- gift parcels not exceeding $400 for North Korea of commodities such as food, clothing (non-military), medicines, and other items normally given as gifts by an individual; and
- gift parcels for Cuba are limited to food, clothing (non-military), vitamins, seeds, medicines, medical supplies and devices, hospital supplies and equipment, equipment for the handicapped, personal hygiene items, veterinary medicines and supplies, fishing equipment and supplies, soap making equipment, certain radio equipment, and batteries for such equipment. The value of the gift parcels may not exceed $200 per month, excluding the value of any food in the package. There are no limits on the frequency or dollar value on food contained in gift parcels to Cuba.

(NOTE: The Department of the Treasury licenses cash donations from U.S. citizens for humanitarian assistance, channeled through U.N. agencies, the International Federation of the Red Cross (IFRC) and U.S. non-overnmental organizations; and humanitarian related commodities obtained from sources in third countries and donated to North Korea through the above organizations.)

B. The Department of Commerce generally denies export license applications for exports to Cuba and North Korea; however, Commerce will consider applications for the following on a case-by-case basis:

- exports to meet basic human needs;
- exports to Cuba from foreign countries of non-strategic foreign-made products containing 20 percent or less United States-origin parts, components or materials, provided the exporter is

not a United States-owned or controlled subsidiary in a third country;

- exports to Cuba of telecommunications equipment, to the extent permitted as part of a telecommunications project approved by the Federal Communications Commission, necessary to deliver a signal to an international telecommunications gateway in Cuba;
- exports to support projects under the U.S.-North Korea Agreed Framework of 1994 (including Korean Energy Development Organization initiatives).
- Certain exports to Cuba intended to provide support for the Cuban people.

C. The Department of Commerce reviews applications for exports of donated and commercially-supplied medicine or medical items to Cuba on a case-by-case basis. The United States will not restrict exports of these items, except in the following cases:

- to the extent Section 5(m) of the Export Administration Act of 1979 or Section 203(b)(2) of the IEEPA would permit such restrictions;
- 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;
- in a case in which there is a reasonable likelihood that the item to be exported will be reexported; or
- in a case in which the item to be exported could be used in the production of any biotechnological product; and
- in a case where the U.S. Government determines that it would be unable to verify, by on-site inspection and other appropriate means, that the item to be exported will be used for the purpose for which it was intended and only for the use and benefit of the Cuban people. This exception does not apply to donations of medicine for humanitarian purposes to a nongovernmental organization in Cuba.

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The licensing policies for the Federal Republic of Yugoslavia (Serbia and Montenegro) (FRY) are as follows:

A. The Department of Commerce requires a license for the export of arms-related items and certain other items on the CCL that could be used for terrorist activities or to repress the civilian population to FRY. Items requiring licenses include shotguns, ammunition, military vehicles, equipment for the production of military explosives, bulletproof vests, night vision equipment, crime and crowd control equipment, and items that may be used to arm and train individuals for terrorist activities. Many of these items are already subject to license application requirements under the EAR for export to FRY. However, this action imposes export license requirements on additional items, including water cannons bomb detection equipment and explosives.

B. The Department of Commerce reviews all license applications to export the items listed above to FRY under a policy of denial.

ANALYSIS OF CONTROL AS REQUIRED BY SECTION 6(F) OF THE ACT

The United States has administered the embargoes on exports to Cuba and North Korea under the Act and other statutes, in a manner consistent with Treasury sanctions adopted under the Trading with the Enemy Act, as amended. The latter authority continues in effect by virtue of Sections 101(b) and (c), and 207, of Public Law 95–223, which the President has extended annually, pursuant to national interest determinations.

A. THE PURPOSE OF THE CONTROL

Originally, the United States imposed embargoes on each of these countries for foreign policy purposes, among other reasons. Although the original circumstances that prompted the United States to impose controls have changed, these controls continue. These embargoes demonstrate the unwillingness of the United States to maintain normal trade with these countries until they take steps to change their policies to conform to recognized international standards.

Cuba. This embargo was imposed several decades ago when Cuban actions seriously threatened the stability of the Western Hemisphere, and the Cuban Government had expropriated property from U.S. citizens without compensation. Because of Cuba's support for insurgent groups that have engaged in terrorism, the Secretary of State designated it as a state sponsor of terrorism under Section 6(j) of the Act in March 1982.

North Korea. North Korea continues to maintain an offensive military capability and to suppress human rights. The planting of a bomb aboard a South Korean airliner by North Korean agents in November 1987 prompted the Secretary of State to designate North Korea as a state sponsor of international terrorism, under Section 6(j) of the Act, in January 1988. This designation has not been revoked.

Rwanda. The controls remain in place to prevent any U.S. contribution to potential conflict in that country and to conform to United Nations-mandated sanctions.

The Federal Republic of Yugoslavia (Serbia and Montenegro): The controls remain in place to prevent U.S. contribution to potential conflict and the repression of the civilian population in that country and to conform with United Nations-mandated sanctions.

B. CONSIDERATIONS AND/OR DETERMINATIONS OF THE SECRETARY OF COMMERCE:

1. *Probability of Achieving Intended Foreign Policy Purpose.* The embargoes have denied these nations the substantial benefits of normal trade relations with the United States. The controls continue to put pressure on the governments of these countries to modify their policies, since the United States will not lift these embargoes without a general improvement in relations. For Rwanda and the Federal Republic of Yugoslavia, the applicable controls may serve to reduce the potential for conflict.

2. *Compatibility with Foreign Policy Objectives.* The controls complement U.S. foreign policy in other aspects of U.S. relations with these countries. They encourage the governments to modify their

policies, thereby improving their relations with the United States. For Rwanda and the Federal Republic of Yugoslavia, these controls are consistent with U.S. foreign policy goals of promoting peace and stability and preventing human rights abuses.

3. *Reaction of Other Countries.* Although most countries recognize the right of the United States to determine its own foreign policy and security concerns, many countries, particularly Canada, Mexico and the members of the European Union, opposed the Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996 (Helms-Burton), which they perceive as an extraterritorial application of U.S. law. Most countries respect U.S. unilateral controls toward North Korea in light of the unresolved situation on the Korean peninsula and the aggressive nature of North Korean support for international terrorism and the proliferation of weapons of mass destruction. The U.S. arms embargoes on Rwanda and the Federal Republic of Yugoslavia are consistent with the objectives of the United Nations; the United States has received no significant objections to these controls.

4. *Economic Impact on United States Industry.*

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F. FOREIGN AVAILABILITY

Since Cuba and North Korea are also designated terrorism-supporting countries, as well as embargoed destinations, the foreign availability provision does not apply to items determined by the Secretary of State to require control under Section 6(j) of the Act.[10] Cognizant of the value of such controls in emphasizing the U.S. position toward countries supporting international terrorism, Congress specifically excluded them from foreign availability assessments otherwise required by the Act. For Rwanda and the Federal Republic of Yugoslavia, the U.S. human rights policies and concerns about the situation in those countries outweigh foreign availability considerations.

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6. *Libya (Section 746–4)*

EXPORT CONTROL PROGRAM DESCRIPTION AND LICENSING POLICY

On August 5, 1996, the President signed into law the Iran and Libya Sanctions Act in an effort to deny Iran and Libya the ability to support acts of international terrorism and to develop and acquire weapons of mass destruction. The Act requires the President to sanction a person who made an investment of $40 million or more that directly and significantly contributed to Libya's ability to develop its petroleum resources, and to sanction persons who provide Libya with certain goods and services proscribed under United Nations Security Council Resolutions 748 and 883 that significantly and materially contribute to Libya's military, aviation, or certain petroleum development capabilities. ILSA requires the imposition of at least two sanctions from six available sanctions categories (one of which is an export sanction) against an entity determined to have engaged in sanctionable activity described in ILSA.

ILSA is one action in a long history of action the United States has taken against Libya. Libya is one of the countries designated by the Secretary of State as a repeated state sponsor of acts of international terrorism. In January 1986, the President imposed a comprehensive embargo against Libya under the authority of the International Emergency Economic Powers Act (IEEPA). The Department of the Treasury is responsible for licensing exports under the Libyan Sanctions Regulations (31 CFR Part 550). Since February 1, 1986, exports from the United States and transshipments via third countries to Libya require authorization in the form of a general or specific license from Treasury.[11] All direct trade with Libya is prohibited and certain Libyan Government-owned or -controlled assets subject to U.S. jurisdiction—estimated at $1 billion—are frozen by the Department of the Treasury.

On November 14, 1991, a grand jury in the U.S. District Court for the District of Columbia returned an indictment against two Libyan nationals accused of bombing Pan Am Flight 103 en route from London to New York. On the same day, Scottish authorities obtained a petition warrant for the two Libyans on similar charges.

On January 21, 1992, the United Nations Security Council (UNSC) adopted Resolution 731, which condemned the Pan Am bombing, as well as the bombing of a French UTA flight, and urged Libya to fully and effectively respond to requests that the United States, the United Kingdom, and France had made upon it in connection with the investigation, apprehension, and prosecution of those responsible for the bombings. On March 31, 1992, after concluding that Libya had not made satisfactory responses to such requests, the UNSC adopted Resolution 748, which imposed mandatory sanctions on Libya, effective April 15, 1992, until such time as the Security Council determined that Libya had complied with the requests made by the United States, the United Kingdom, and France, and renounced terrorism. Resolution 748 requires U.N. member states to prohibit, by their nationals or from their territory, inter alia, the supply of any aircraft or aircraft components to Libya or the provision of engineering and maintenance servicing of Libyan aircraft. Resolution 748 also requires member states to prohibit, by their nationals or from their territory, the provision of arms and related material of all types, including the sale or transfer of weapons and ammunition, military vehicles and equipment, paramilitary police equipment and spare parts for such equipment. Finally, Resolution 748 requires member states to deny any flight in their airspace, or landing or taking off in their territory, by aircraft which are flying to or from Libya, to prevent operation of Libyan Arab Airlines and to reduce significantly Libyan diplomatic representation abroad.

Continued Libyan non-compliance with UNSC demands resulted in the adoption by the UNSC of Resolution 883 on November 11, 1993, which imposed additional sanctions, including a limited assets freeze, and provisions closing certain gaps in the civil aviation sanctions provided for in Resolution 748. Resolution 883 requires

[11] Though Treasury's Libyan Sanctions Regulations duplicate the restrictions in the Export Administration Regulations (EAR) on exports from the United States to Libya, all the Department of Commerce controls are being extended. These controls can be reevaluated in the event the Treasury regulations issued under IEEPA authorities are revoked.

States to freeze any funds or financial resources owned or controlled by the Government of Libya or a Libyan undertaking and ensure that such funds, or any other funds or financial resources, are not made available to the Government of Libya or any Libyan undertaking. Also, Resolution 883 requires member states to prohibit the provision to Libya, by their nationals or from their territory of materials destined for the construction, improvement or maintenance of Libyan civilian or military airfields and associated facilities and equipment, of any engineering or other services or components destined for the maintenance of any Libyan civil or military airfields, with certain exceptions, and of certain oil terminal and refining equipment, as listed in Appendix III. Furthermore, Resolution 883 required that States immediately close all Libyan Arab Airlines offices, and prohibit any commercial transactions with Libyan Arab Airlines, and prohibit, by their nationals or from their territory, the entering into or renewal of arrangements for the making available for operation within Libya of any aircraft or aircraft components.

In December 1993, the President instructed the Commerce Department to reinforce the trade embargo on the reexport to Libya of U.S.-origin items. The Commerce Department thereupon tightened licensing policy on the reexport of items covered by UNSC Resolutions 748 and 883. Furthermore, in 1995, the U.S. Government adopted a general policy of denial for all exports and reexports to Libya, except for those with a humanitarian purpose.

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ANALYSIS OF CONTROL AS REQUIRED BY SECTION 6(F) OF THE ACT

A. THE PURPOSE OF THE CONTROL

The purpose of export and reexport controls toward Libya is to demonstrate United States opposition to, and to distance the United States from, that nation's support for acts of international terrorism, international subversive activities, and intervention in the affairs of neighboring states. The controls also reinforce implementation of UNSC resolutions.

B. CONSIDERATIONS AND/OR DETERMINATIONS OF THE SECRETARY OF COMMERCE:

1. *Probability of Achieving Intended Foreign Policy Purpose.* The controls deny Libya U.S.-origin national security-controlled items, oil and gas equipment unavailable from outside sources, and items for the Ras Lanuf Petrochemical complex. The controls restrict Libyan capability to use U.S.-origin aircraft, aircraft components and accessories, and off-highway tractors in military ventures, or in its efforts to destabilize nations friendly to the United States. Consistent with UN resolutions 748 and 883, the United States reinforced the reexport, prohibitions for certain oil terminal and refining equipment, plus items used to service or maintain Libyan aircraft and airfields, and all other items subject to the EAR. The combined effect of these controls has been to prevent a United States contribution to Libya's ability to engage in activities detrimental to United States foreign policy. Furthermore, they send a

clear signal that the United States is unwilling to permit trade in light of Libya's behavior.

2. *Compatibility with Foreign Policy Objectives.* Because these controls are intended to prevent a U.S. contribution to Libyan economic activities, force Libya to abide by international law, and thereby diminish Libya's ability to undermine regional stability and support international terrorism, they are consistent with U.S. foreign policy goals and with policies on sales to Libya.

3. *Reaction of Other Countries.* As indicated by the adoption of UNSC Resolutions 73 1, 748 and 883, there is a general understanding by other countries of the threat posed by Libya's policies of subversion, terrorism, and military aggression. When the United States imposed the bulk of its controls in 1986, the United States explained its policies to other governments and urged them to adopt comparable policies. There was some favorable response, but no country has matched the extent of U.S. controls. In 1986, the European Union and the Group of Seven approved unanimous steps against Libya, including restrictions on Libyan officials in Europe and a ban on new arms sales. The international community has effectively implemented the sanctions imposed by the UN Security Council. The United States closely monitors all trade with Libya and swiftly brings any noncompliance with the most recent UN resolutions to the attention of appropriate foreign authorities.

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5. *Enforcement of Control.* In light of the widespread perception of Libya as a supporter of international terrorism, along with UN sanctions, there is substantial voluntary compliance on the part of U.S. companies and their subsidiaries overseas. Nonetheless, the Department of Commerce remains concerned about the continuing potential for unauthorized re-export of goods controlled for national security/nonproliferation reasons. It is virtually impossible to monitor the full extent to which such transfers may occur, given the variety of goods involved, the opportunities created by differences in export laws between countries, and the ease of transshipment through free ports such as Malta. In particular, control of U.S. origin aircraft parts, components, and avionics or foreign-manufactured aircraft with any U.S. content requires a major commitment of enforcement resources. Commerce will continue to aggressively enforce these controls.

C. CONSULTATION WITH INDUSTRY

The Department of Commerce published a notice in the Federal Register on October 8, 1997, requesting public comments on its foreign policy-based export controls. As of the date of publication of this report, Commerce had received no comments on its export controls on Libya.

D. CONSULTATION WITH OTHER COUNTRIES

On October 13, 1998, the Department of Commerce, via the Federal Register, solicited comments from industry on the effectiveness of export policy. In general, the comments indicated that industry does not feel that unilateral sanctions are effective. A more detailed review of the comments is available in Appendix I.

Extensive consultation with other nations has taken place under UN auspices. The United States also intends to continue consulting friendly governments in order to achieve full compliance with UN sanctions.

E. ALTERNATIVE MEANS

U.S. controls complement diplomatic measures that we have, and will continue to use, to influence Libyan behavior.

F. FOREIGN AVAILABILITY

The foreign availability provision does not apply to items determined by the Secretary of State to require control under Section 6(j) of the Act.[10] Cognizant of the value of such controls in emphasizing the U.S. position toward countries supporting international terrorism, Congress specifically excluded them from foreign availability assessments otherwise required by the Act. The foreign availability of items controlled under Section 6(a) has been considered by the Department of Commerce. In general, numerous foreign sources of commodities similar to those subject to these controls are known, especially for items controlled by the United States.

7. Chemical Precursors and Associated Equipment, Technology and Software (Sections 742.2, 744.4 and 744.6)

EXPORT CONTROL PROGRAM DESCRIPTION AND LICENSING POLICY

The United States maintains export controls over certain chemicals, equipment, materials, software, technology and whole plants to further U.S. foreign policy opposing the proliferation and use of chemical weapons.[12] The United States implements these controls in coordination with the Australia Group (AG), an informal forum of 30 nations cooperating to halt the proliferation of chemical and biological weapons. (See table in Appendix II for complete list of members.) The Department of Commerce has primary responsibility for overseeing the compliance of industry with the Chemical Weapons Convention (CWC), which bans the development, production, stockpiling, and retention of chemical weapons, and provides for an extensive verification regime.[13] Chemical warfare agents deemed to have direct military application are controlled by the State Department under the International Traffic in Arms Regulations.

Pursuant to passage of the CWC Implementation Act (CWCIA) on October 21, 1998, Commerce expects to be responsible for industry compliance with the Convention and will promulgate two regulations in the near future: (1) amendment to the EAR addressing new export controls and end-use requirements; and (2) Chemical Weapons Convention Regulations (CWCR) addressing data declaration and inspection requirements. After publication of the final CWCR, Commerce will collect industry declarations regarding production, processing, consumption, import, and export of toxic

[12] Anti-terrorism controls also apply to exports of these items to countries designated as state sponsors of terrorism by the Secretary of State.

[13] The CWC was ratified by the United States on April 25, 1997 and entered into force on April 29, 1997. As of September 30, 1997, 100 nations were States Parties to the treaty.

chemicals for purposes not prohibited by the Convention (e.g., industrial, agricultural, and other peaceful purposes) and will forward the information to the Organization for the Prohibition of Chemical Weapons (OPCW). Commerce will also escort inspections of certain U.S. chemical production facilities by the OPCW.

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ANALYSIS OF CONTROL AS REQUIRED BY SECTION 6(F) OF THE ACT

A. THE PURPOSE OF THE CONTROL

These controls are to prevent a U.S. contribution to, and to support multilaterally coordinated efforts to control, the proliferation and use of chemical weapons. They also provide regulatory authority to control the export of any item from the United States when there is a significant risk that it will be used for chemical weapon purposes. These controls implement certain measures specified in Executive Order 12735 of November 16, 1990, and its successor, Executive Order 12938 of November 14, 1994, and the Enhanced Proliferation Control Initiative (EPCI) announced by President Bush on December 13,1990 (and endorsed by President Clinton).

These controls advance U.S. implementation of multilateral export control commitments made by members of the AG to further non-proliferation objectives. The AG works to accomplish this objective through the harmonization of export controls, the exchange of information, and other diplomatic means. In addition, these controls assist the United States in implementing its obligation under the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on their Destruction (the Chemical Weapons Convention, or CWC) not to assist anyone, in any way, in chemical weapons activities. The controls also support the goals of the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare, which prohibits the use of chemical or biological weapons.

B. CONSIDERATIONS AND/OR DETERMINATIONS OF THE SECRETARY OF COMMERCE

1. *Probability of Achieving the Intended Foreign Policy Purpose.* These export controls demonstrate U.S. commitment to curtail the spread of chemical weapons and to uphold multilateral agreements to cooperate in this effort. However, many of the items covered by these controls are available in chemical producing nations that are not members of the AG. These controls, however, continue to be a significant part of the United States' overall strategy to prevent the proliferation of weapons of mass destruction. Accordingly, the Secretary has determined that these controls are likely to achieve the intended foreign policy purpose.

2. *Compatibility with Foreign Policy Objectives.* In extending these controls, the Secretary has determined that the controls are compatible with the foreign policy objectives of the United States. The United States has a strong interest in remaining in the forefront of international efforts to stem the proliferation of chemical weapons. These controls are compatible with the multilateral ex-

port controls for chemicals and related equipment and technology agreed to by the AG. Moreover, the United States has a binding international commitment under the CWC to the complete prohibition and elimination of all chemical weapons and of assistance to chemical weapons programs.

3. *Reaction of Other Countries.* The Secretary has determined that the reaction of other countries to these controls by the United States is not likely to render the controls ineffective in achieving the intended foreign policy purpose or to be counterproductive to U.S. foreign policy interests. Some non-aligned countries, that are parties to the CWC and the Biological Weapons Convention (BWC), have voiced opposition to the export controls of the AG and have called for its elimination claiming that it discriminates against developing economies. They falsely imply that the AG's export controls deprive nonproliferating States of economic and technological development in the chemical field. They state that the CWC should be looked to as the governing legal instrument for the elimination of chemical weapons, and therefore, incorrectly claim that AG export controls are obsolete. The United States in coordination with its AG partners has sought to dispel this perception in international fora by clarifying the purpose of the controls.

4. *Economic Impact on United States Industry.*

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E. ALTERNATIVE MEANS

The United States continues to address the problem of the proliferation of chemical weapons on a number of fronts. Direct negotiations with countries intent on acquiring chemical weapons are not likely to prevent the use of U.S.-origin materials in such activities, nor are such negotiations likely to affect the behavior of these countries.

Alternative means to curtail the acquisition and development of chemical warfare capabilities, such as diplomatic negotiations, do not obviate the need for controls. The following are some examples of additional means that the United States has used and will continue to use in an attempt to curb the use and spread of chemical weapons:

- U.S. legislation: The Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Title III, Pub. L. 102–182) provides for the imposition of sanctions on foreign entities and countries for certain kinds of chemical and biological weapons related activity. The United States has imposed sanctions on certain entities for chemical weapons-related activities;
- The Chemical Weapons Convention: As another tool for stemming the proliferation of chemical weapons, the Convention imposes a global ban on the development, production, stockpiling, retention and use of chemical weapons (CW). The Convention also prohibits the direct or indirect transfers of CW as well as restricting trade in chemicals to non-Parties, and creates an international organization to monitor the destruction of CW and the production of toxic chemicals for industrial, agricul-

tural, medical and other peaceful purposes in countries party to the Convention.

The Department has participated in international fora to negotiate positions which minimize burdens and maximize protections to industry.

Pursuant to passage of the CWC Implementation Act (CWCIA) on October 21, 1998, Commerce expects to be responsible for industry compliance with the Convention and will promulgate two regulations in the near future: (1) amendment to the EAR addressing new export controls and end-use requirements; and (2) Chemical Weapons Convention Regulations (CWCR) addressing data declaration and inspection requirements. After publication of the final CWCR, Commerce will collect industry declarations regarding production, processing, consumption, import, and export of toxic chemicals for purposes not prohibited by the Convention (e.g., industrial, agricultural, and other peaceful purposes) and will forward the information to the Organization for the Prohibition of Chemical Weapons (OPCW). Commerce will also escort inspections of certain U.S. chemical production facilities by the OPCW.

F. FOREIGN AVAILABILITY

Past reviews conducted by Commerce revealed that there was availability from non-AG countries for a wide range of AG chemical precursors and production equipment. Non-AG suppliers of precursors and/or related production equipment include Brazil, Chile, Colombia, India, Mexico, China (PRC), South Africa, the countries of the former Soviet Union, Taiwan, Thailand, and Turkey. However, most of these countries are parties to the CWC and will take steps under this treaty to prevent CW proliferation.

8. Biological Agents and Associated Equipment and Technical Data (Sections 742.2, 744.4 and 744.6)

EXPORT CONTROL PROGRAM DESCRIPTION AND LICENSING POLICY

The Bureau of Export Administration (BXA) exercises export controls over certain microorganisms and toxins and biological equipment and related technology, to further U.S. foreign policy opposing the proliferation and use of biological weapons. The United States implements these export controls multilaterally in coordination with the Australia Group (AG), an informal forum of 30 nations cooperating to halt the proliferation of chemical an biological weapons. The United States also participates in international efforts to effect a total ban on biological weapons in compliance with the Convention on the Prohibition of the Development Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BWC).

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ANALYSIS OF CONTROL AS REQUIRED BY SECTION 6(F) OF THE ACT

A. THE PURPOSE OF THE CONTROL

These controls are to prevent U.S. contribution to the proliferation and use of biological weapons, and to support multilaterally co-

ordinated control efforts. The controls also provide the regulatory authority to stop the export of any item from the United States when there is a significant risk that it will be used for biological weapons purposes. The controls implement certain measures directed in Executive Order 12735 of November 16, 1990, and its successor, Executive Order 12938 of November 14, 1994, and the Enhanced Proliferation Control Initiative of December 13, 1990.

The United States implements these controls in coordination with the AG, a forum of thirty nations that cooperate to halt the spread of chemical and biological weapons. The AG works to accomplish this objective through the harmonization of export controls, the exchange of information, and other diplomatic means. In addition, these controls demonstrate the United States' commitment to its obligation under the BWC [14] not to develop, produce, stockpile, acquire or retain biological agents, weapons, equipment or the means of delivery for warfare purposes and not in any way assist such activities. The controls also advance the goals of the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, or other Gases, and of Bacteriological Methods of Warfare, to prohibit the use of chemical or biological weapons.

B. CONSIDERATIONS AND/OR DETERMINATIONS OF THE SECRETARY OF COMMERCE

1. *Probability of Achieving the Intended Foreign Policy Purpose.* The Secretary has determined that the control is likely to achieve the intended foreign policy purpose even in light of other factors, including availability of these items from other sources. These controls continue to affirm U.S. opposition to the development, proliferation and use of biological weapons and serves to distance the United States from such activities.

2. *Compatibility with Foreign Policy Objectives.* In extending these controls, the Secretary has determined that the controls are compatible with the foreign policy objectives of the United States. The United States has a strong interest in remaining in the forefront of international efforts to stem the proliferation of biological weapons. These controls are compatible with the multilateral export controls for biological materials agreed to by the AG. Moreover, the United States has a binding international commitment under the BWC and the Geneva Protocol to the complete prohibition and elimination of all biological weapons and to their nonproliferation.

3. *Reaction of Other Countries.* Some non-aligned countries—those which are party to the BWC and the Chemical Weapons Convention (CWC), but not the AG—have voiced opposition to the AG's export controls incorrectly claiming they discriminate against developing countries. Countries claim to be concerned that the controls could hinder their right, under Article X of the BWC, to participate in the fullest possible exchange of equipment, materials and technology for the agents and toxins for peaceful purposes. In

[14] The full title of the BWC is the "Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction. The treaty was signed in 1972 and ratified by the United States in 1975.

international fora, the U.S. Government has sought to dispel this perception by clarifying the purpose of the controls.

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5. *Enforcement of Control.* Enforcing controls on biological weapons materials poses problems similar to the enforcement of chemical controls, but with additional difficulties. Biological materials are microscopic organisms that require technical expertise and specialized facilities to identify and to handle. Because of their size, the biological agents can be concealed and transported with ease.

To meet the challenge of effective enforcement of these proliferation controls, Commerce has redirected resources towards preventive enforcement. Enforcement personnel have recently begun conducting an extensive on-going outreach program to educate appropriate industries about export controls. The program is also designed to increase the industry's awareness of suspicious orders for products or equipment that could be used for biological weapons proliferation. A significant number of investigations have been opened into allegations of illegal activity related to these concerns. In cases when unlicensed shipments of biological materials have already taken place, Commerce has found that investigations and prosecutions are successfully conducted on the basis of routine documentation, as in other export control enforcement cases.

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D. CONSULTATION WITH OTHER COUNTRIES

The United States continues to address the problem of biological weapons proliferation through a variety of international fora, and urges other AG members to pursue export control cooperation with non-members on a bilateral or regional basis.

Recognizing that multilateral coordination of export controls and enforcement actions is the most effective means of restricting proliferation activities, the United States coordinates its controls on biological items with 29 other countries in the AG. At the annual AG plenary, held last October 12–15, 1998, members reviewed export controls on certain biological agents and toxins and biological equipment items.

The U.S. continues to urge key non-AG countries to adopt AG biological export controls. In 1998, BXA interacted with several of the Newly Independent States, including Russia, to raise awareness about the problems of proliferation and the need to develop export control systems that support nonproliferation goals.

In addition, during 1998, there was further discussion on completing a protocol to the BWC. The BWC, which entered into force in 1975, is an international arms control agreement among 140 nations that bans the development, production, stockpiling, acquisition, or retention of biological agents or toxins that have no justification for prophylactic, protective or other peaceful purposes. Discussions on a protocol included mandatory data declarations, on-site inspections, enhanced information exchange, and a permanent BWC international oversight organization.

E. ALTERNATIVE MEANS

The United States continues to address the problem of proliferation of biological weapons on a number of fronts. Direct negotiations with countries intent on acquiring biological weapons are not likely to prevent the use of U.S.-origin materials in such activities. Neither are such negotiations likely to affect the behavior of these countries.

Alternative means to curtail the acquisition and development of biological warfare capabilities, such as diplomatic negotiations, do not obviate the need for controls. The following examples demonstrate additional means that have been and will continue to be used in an attempt to curb the use and spread of biological weapons:

- U.S. Legislation—Regulations issued by the Public Health Service (42 CFR Part 72) pursuant to the "The Antiterrorism and Effective Death Penalty Act of 1996" (Sec. 511 of Pub. L.104–132), places additional shipping and handling requirements on laboratory facilities that transfer or receive select infectious agents capable of causing substantial harm to human health.

  The Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Title III, Pub. L.102–182) provides for the imposition of sanctions on foreign persons and countries for certain kinds of chemical and biological weapons related activity. To date, no sanctions have been imposed for biological weapons related activities.
- Trilateral US/UK/Russian Statement—In September 1992, the United States, United Kingdom and Russia confirmed their commitment to full compliance with the Biological Weapons Convention and agreed to a number of steps including data exchanges, visits to sites, and further consultations to enhance cooperation and confidence.
- Biological Weapons Convention—An Ad Hoc Group continues to work to develop a protocol to strengthen the effectiveness and build confidence in compliance with the BWC.

F. FOREIGN AVAILABILITY

Past reviews conducted by BXA identified the availability of AG-controlled viruses and bacteria in the non-AG countries of Brazil, Bulgaria, India, Indonesia, Iran, Jordan, Mexico, PRC, Senegal, Singapore, Taiwan, and Thailand and related AG-controlled equipment items available in Brazil, Bulgaria, Hong Kong, India, Israel, Malaysia, Pakistan, PRC, Russia, Saudi Arabia, Singapore, South Africa, Taiwan and Ukraine. (Most of this equipment has application in the food processing and pharmaceutical industries.) Many of the countries listed above are parties to the BWC and BXA is working with other U.S. agencies as part of ongoing international efforts to strengthen the effectiveness of this Convention.

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10. High Performance Computers (Section 742.12)

EXPORT CONTROL PROGRAM DESCRIPTION AND LICENSING POLICY

The revision of export controls on computers will continue to be a high priority for the Administration as improvements in computer technology continue to enhance system performance. Major revisions occurred in February 1994, and again in January 1996. In April 1998, an independent study was completed under a contract funded by the Commerce Department to review computer system improvements and the parameters for measuring performance. The United States Government is reviewing the results of this study for its implications for U.S. export control policy.

Congress added provisions to the National Defense Authorization Act for Fiscal Year 1998 (NDAA), which President Clinton signed on November 18, 1997, requiring exporters to notify the Department of Commerce of their intent to export or reexport high performance computers (HPCS) with a performance capability of between 2,000 and 7,000 million theoretical operations per second (MTOPS) to end-users in countries known in the Export Administration Regulations (EAR) as Tier 3 countries. On February 3, 1998, Department of Commerce revised the EAR through a Federal Register notice to implement this new legal requirement. Under the new procedures, the Secretaries of Commerce, Defense, Energy and State, and the Director of the Arms Control and Disarmament Agency have ten days to review each notification. If no agency raises a specific objection to the proposed export or reexport, the exporter may ship. If an agency objects to the transaction, the United States will require a license application. The law also requires the Department of Commerce to perform post-shipment visits on exports of HPCs with a performance capability over 2,000 MTOPS to Tier 3 countries, whether or not a license was required.

The controls in force during 1998, listed by Tier group limits and requirements, are as follows (See Appendix IV for a list of the countries in each Tier group):

Computer Country Tier 1—The first level of the sliding scale allows exports to most of the industrialized democracies to proceed without prior government review (i.e., export under a license exception), and with no limitation on MTOPS. Exporters are required to maintain records of shipments. Reexport and retransfer restrictions also apply.

Computer Country Tier 2—The second level applies to countries with low risk proliferation and export control records. There is no prior government review for exports of up to 10,000 MTOPS. Reexport and retransfer restrictions apply. Exports above 10,000 MTOPS to these countries require prior government review (an export license).

Computer Country Tier 3—The third level applies to countries posing proliferation or other security risks. Licenses are required for computers with a capability above 2,000 MTOPS for military and proliferation end-uses and users, and at 7,000 MTOPS for all other end-uses and users. As stated above, prior government review under the "NDAA" notification process, is now required for all exports of computers between 2,000 and 7,000 MTOPS intended for civil end users and uses. These computers may be exported without a license, provided no reviewing government agency raises an ob-

jection within the first ten days of the reviewing process. If an objection is raised, a license is required. Exporters are required to provide a written report to the government within 30 days of the export of a computer without a license. Using this information and licensing data, the government will perform post-shipment visits on exports of HPCS over 2,000 MTOPS to Tier 3 countries, regardless of whether a license was issued. Reexport and retransfer restrictions apply.

Computer Country Tier 4—The fourth level applies to terrorism-supporting countries (Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria). The President decided to continue to deny high performance computers to these destinations. A license is required from Commerce to export or reexport to any end-user in Syria computers with a CTP greater than or equal to 6 MTOPS. Cuba, Iran, Iraq, Libya, North Korea and Sudan are subject to comprehensive trade embargoes and hence U.S. government authorization is required for exports of any computer, regardless of MTOP level, to Cuba, Libya, Iran, Iraq, North Korea, and Sudan, and for reexport of computers with a CTP equal to or above 6 MTOPS to Iran.[15] (The Department of the Treasury's Office of Foreign Assets Control administers these trade embargoes. However, to avoid duplication in license requirements, Commerce and Treasury have allocated licensing responsibility in many instances. Commerce exercises licensing responsibility for exports and reexports to Cuba and North Korea and for reexports to Libya; Treasury exercises licensing responsibility for exports and reexports to Iran and Iraq and for exports to Libya.) Applications to export or reexport controlled computers to designated terrorist supporting countries will generally be denied.

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11. Encryption (Section 742.15)

EXPORT CONTROL PROGRAM DESCRIPTION AND LICENSING POLICY

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ANALYSIS OF CONTROL AS REQUIRED BY SECTION 6(F) OF THE ACT

A. *The Purpose of the Control*

These controls are maintained to protect U.S. national security and foreign policy interests, including the safety of U.S. citizens here and abroad. Encryption can be used to conceal the communications or data of terrorists, drug smugglers, or others intent on taking hostile action against U.S. facilities, personnel, or security interests. Policies concerning the export control of cryptographic products are based on the fact that the proliferation of such products will make it more difficult for the U.S. Government to have access to information vital to national security and foreign policy interests. Also, cryptographic products and software have military and intelligence applications. These controls are consistent with E.O. 13026 of November 15, 1996, and a Presidential Memorandum of the same date.

[15] The scope of the embargo as pertains to reexports to Sudan has not been determined as of the submission of this report.

B. *Considerations and/or Determinations of the Secretary of Commerce:*

1. *Probability of Achieving the Intended Foreign Policy Purpose.* Consistent with Executive Order 13026 of November 15, 1996, and a Presidential Memorandum of the same date, the Secretary has determined that the control achieves the intended purpose of restricting the export of commercial encryption items, including products with key recovery features, if their export would be contrary to U.S. national security or foreign policy interests.

2. *Compatibility with Foreign Policy Objectives.* The Secretary has also determined that the controls are compatible with the foreign policy objectives of the United States. The control is consistent with U.S. foreign policy goals to promote peace and stability and to prevent U.S. exports that might contribute to destabilizing military capabilities and international terrorist or criminal activities against the United States. The controls also contribute to public safety by promoting the protection of U.S. citizens overseas.

3. *Reaction of Other Countries.* The Secretary has determined that the reaction of other countries to this control has not rendered the control ineffective in achieving its intended foreign policy purpose or counterproductive to U.S. foreign policy interests. Other allied countries recognize the need to control exports of encryption products for national security and law enforcement reasons. These countries also recognize the desirability of restricting goods that could compromise shared security and foreign policy interests.

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APPENDIX I

SUMMARY OF COMMENTS ON FOREIGN POLICY CONTROLS

In the *Federal Register* of October 13, 1998, the Department of Commerce requested comments from the public on existing foreign policy-based controls maintained under Section 6 of the Export Administration Act. In the notice, the Department sought comments on how existing foreign policy-based controls have affected exporters and the overall public. Specifically, the notice invited public comments about the effectiveness of controls where foreign availability exists; whether the goals of the controls can be achieved through other means such as negotiations; the compatibility of the overall U.S. policy toward the country in question; the effect of controls on U.S. economic performance; and the enforceability of the controls. The Department also requested comments from the member companies of its Technical Advisory Committees (TACS) and the President's Export Council Subcommittee on Export Administration (PECSEA).

The Department received eight responses to this request, from the Regulations and Procedures Technical Advisory Committee (RPTAC), MTS Systems Corporation, William A. Root, Electronic Industries Alliance (EIA), the Industry Coalition on Technology Transfer (ICOTT), Semiconductor Equipment and Materials International (SEMI) the National Association of Manufacturers (NAM), and Balzers und Leybold Deutschland Holding AG. The Bureau of Export Administration (BXA) makes the comments available for

public review upon request. This Appendix summarizes the comments received and some of the various reports issued in 1998 on unilateral sanctions.

INDUSTRY COMMENTS

MTS System Corporation's response centered on the negative effects of unilateral export controls and embargoes. MTS System believes that unilateral controls and embargoes do not deny equipment to the sanctioned entity and result in a significant losses of business and reputation for U.S. companies. Business opportunities lost in China, India and Iran were used to illustrate MTS System's comments.

William Root wrote urging complete harmonization of U.S. controls with multilateral regimes. Mr. Root advocates revamping U.S. export controls to include multilateral items not currently on the CCL, to bring CCL items currently above and/or below the standard of multilateral controls in line, and to remove unilateral controls. Additionally, his letter identifies fifteen unilateral ECCNs that are identified by numbers indicating that they are multilateral, and 105 ECCNs listed with their respective unilateral and multilateral portions incorrectly identified.

ICOTT wrote in support of William Root's comments in regard to accurate identification of controls on the CCL and harmonization of the CCL with multilateral regimes. In addition, ICOTT opposes the imposition of export controls for symbolic reasons (such as distancing the United States from the actions of other countries) and urges the Administration to fulfill its promise that controls should not be imposed on items with demonstrated foreign availability. Finally, ICOTT urges the Administration to fulfill its promise to publish the names of all suspect end-users in the *Federal Register*.

Electronic Industries Alliance focused its response on two negative effects of unilateral controls: first, their negative impact on the international competitiveness of American industry, and second, the inability of unilateral controls to prevent sanctioned states from engaging in prohibited activities. EIA believes that when formulating export policy, the Department of Commerce should identify the actual effect of the controls on the target country, the potential effect of the proposed controls on U.S. industry, and the level of multilateral cooperation (catchalls, etc.) available to support the controls. Development of these criteria to analyze the effectiveness of the controls would establish the rationale (or lack thereof) of the controls and therefore lead to a better balance between the level of international competition needed to maintain the health of the U.S. economy and the protection of foreign policy and national security interests.

The comments submitted by SEMI were also in opposition to unilateral export controls. In particular, SEMI believes that the continuation of unilateral EPCI controls penalizes U.S. business through the loss of sales revenues that could support domestic research and development efforts. SEMI urges the Department of Commerce to assess the costs of unilateral controls and to work in tandem with U.S. allies in pursuit of effective multilateral sanction policies.

The RPTACs comments promote the use of unilateral controls when the control is demonstrably effective in achieving its intended purpose. RPTAC believes that unilateral controls should be regulated within specific parameters, including design of the control to meet specific objectives and the use of unilateral controls only when the control's objective can (as compared to may) be achieved. The India-Pakistan sanctions, NDAA computer controls, the Department of Commerce's relationship with China (PRC), the deemed export rule and the lack of conformity of some EAR revisions with multilateral requirements are all cited as examples of foreign-policy based controls that do not address their objective and result in unintended consequences for U.S. industry.

Balzer und Leybold Deutschland Holding AG (BLDH) commented that under the EAR, U.S. firms have a great number of advantages in exporting controlled goods as compared to their European counterparts. As an example, BLDH cited ECCNs 2B350 through 2B352, under which the U.S. Government allows exports from the United States to 154 countries under "No License Required" standards but requires licenses for the same goods being reexported from Germany to all but 21 countries. Additionally, BLDH stated that the EAR is too complicated, citing Section 744 (Control Policy: End-User and End-Use Based) as an overly complex section, the whole of which is contained in a few lines in the European Community's Council Regulation No. 3381/94.

UNILATERAL SANCTIONS

Much attention in 1998 focused on the issue of U.S. unilateral sanctions. Many industry associations and research institutes published reports on sanctions. In addition, the USDA released a report analyzing the impact of U.S. sanctions on U.S. agricultural trade. This Appendix, while not inclusive, summarizes some of the reports published this year and highlights their major conclusions.

The report released by USDA during the summer of 1998 concluded that U.S. sanctions on six specific countries cost the United States a minimum of $500 million in lost trade during 1996. Industry response to the report estimates the loss as much higher. The Foreign Agricultural Service's contribution to the report included an analysis of sanctions concluding that normalization of investment flows and the ability to get foreign investment into sanctioned countries (i.e., Cuba, North Korea, Iran, Iraq, etc.) would do more to expand consumption of U.S. agricultural products than would simply lifting agricultural sanctions.

In July, 1998, the Council on Foreign Relations published a book—*Economic Sanctions and American Diplomacy,* edited by Richard N. Haass, exploring the paradoxical role of sanctions in American foreign policy. The book focuses on the concept that although sanctions are often ineffective, they have become one of the foreign policy tools of choice for the United States in the post-Cold War world. In addition to exploring the role that sanctions play in American foreign policy, the book suggests reforms that would enable Congress and the Administration to make better decisions about sanctions and to implement them more effectively.

A policy brief released by The Brookings Institution in June, 1998, "Economic Sanctions: Too Much of a Bad Thing," explores the

increasing use of sanctions to promote the full range of American foreign policy objectives. The brief concludes that sanctions too often turn out to be expressions of U.S. preferences that hurt American business interests without positively changing the target's behavior.

The Center for Strategic and International Studies released the interim report from its Steering Committee on Economic Sanctions in June, 1998. The theme of the report is that unilateral economic sanctions are ineffective and damage U.S. national interests.

NAM provided the Department of Commerce with two of its reports: "A Catalog of New U.S. Unilateral Economic Sanctions for Foreign Policy Purposes, 1993–96", and "Unilateral Economic Sanctions 1997–98." Although NAM recognizes the necessity of multilateral controls, it does not believe that the EPCI items the U.S. controls unilaterally are controllable and/or are sufficiently critical to proliferation programs to justify controls. Additionally, NAM believes that unilateral controls are an impediment to the international competitiveness of U.S. business.

6. Department of the Treasury

a. Terrorist Assets Report

1998 Annual Report to the Congress on Assets in the United States Belonging to Terrorist Countries or International Terrorist Organizations, January 1999

SUMMARY

More than $3.4 billion of assets of seven state sponsors of terrorism are located within U.S. jurisdiction. Of that amount, more than $3.3 billion are blocked by the U.S. Department of the Treasury pursuant to economic sanctions imposed by the United States against six of the terrorist countries. In addition, approximately $675,000 in assets of international terrorist organizations which were identified and blocked within the United States in 1995, remain blocked in 1998. Approximately $23.6 million in funds are currently blocked based upon an interest of Usama Bin Ladin.

BACKGROUND

Section 304 of Public Law 102–138, as amended by Public Law 103–236 (22 U.S.C. § 2656g), requires the Secretary of the Treasury, in consultation with the Attorney General and appropriate investigative agencies, to provide annual reports to the Congress concerning the nature and extent of assets held in the United States by terrorist countries and organizations engaged in international terrorism. The Department of the Treasury submitted its first Terrorist Assets Report to the Congress in April 1993. The current report, covering calendar year 1998, is the seventh successive Terrorist Assets Report. The Terrorist Assets Report on Foreign Relations and the Committee on Foreign Relations and the Committee on Finance in the Senate and to the Committee on International Relations and the Committee on Ways and Means in the House. It was prepared by the Department of the Treasury's office of Foreign Assets Control ("OFAC"), which has the responsibility for administering and enforcing economic sanctions programs mandated by the President pursuant to his declaration of a national emergency with respect to particular foreign countries and non-state parties. Almost ninety-nine percent of the identified U.S.-based assets of state sponsors of terrorism and all blocked assets of international terrorist organizations are under the sanctions controls of OFAC.

More than a dozen Federal agencies and offices were polled in developing the report. They included:

Department of State Joint Chiefs of Staff
Department of Justice U.S. Customs Service
Federal Bureau of Investigation Internal Revenue Service
U.S. Secret Service Department of Defense

Intelligence Community Office of Foreign Assets Control
Bureau of Alcohol, Tobacco and Firearms
Committee on Foreign Investment in the United States (CFIUS)
Financial Crimes Enforcement Network (U.S. Treasury)

State Sponsors of Terrorism: State sponsors of terrorism are those countries designated by the Secretary of State under Section 40(d) of the Arms Export Control Act, Title 22, U.S.C. § 2780(d). States currently listed as sponsors of terrorism are: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria, however blockings are only available for the first six countries, and not for Syria. The existing asset freezes, financial prohibitions, trade embargoes, and travel and transportation-related restrictions are promulgated under the authority of the Trading with the Enemy Act, Title 50, U.S.C., Appendix, §§ 1–44 (Cuba and North Korea), the International Emergency Economic Powers Act, Title 50 U.S.C., §§ 1701–1706 ("IEEPA") (Iran, Iraq, Libya, and Sudan), the United Nations Participation Act, Title 22, U.S.C., § 287c (Iraq andLibya), the International Security and Development Cooperation Act, Title 22, U.S.C., § 2349aa–8 & 9 (Iran and Libya), and the Antiterrorism and Effective Death Penalty Act of 1996 (Pub. L. 104–132, 110 Stat. 1214–1319 (the "Antiterrorism Act") (Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria). Section 321 of the Antiterrorism Act (18 U.S.C. 2332d) makes it a criminal offense for United States persons, except as provided in regulations issued by the Secretary of the Treasury in consultation with the Secretary of State, to engage in financial transactions with the governments of countries designated under section 6(j) of the Export Administration Act (50 U.S.C. App. 2405) as supporting international terrorism.

Information concerning the known holdings in the United States of the seven state sponsors of terrorism is reported below in Part I. It should be noted that, with the exception of Syria, the totals represent amounts frozen under United States sanctions programs which, in most cases, block all property in which the target is believed to have any interest. In some instances the interest may be partial, or fall short of undisputed title to the property. Determinations concerning these interests are made based on all relevant information before OFAC. Many of the assets are also the subject of other claims, sometimes by, multiple parties. Blocked assets may not be attached, however, by any claimant unless authorized by OFAC consistent with U.S. policy.

International Terrorist Organizations: Section 304 of Public Law 102–138 also requires the Secretary of the Treasury to report to the Congress annually on those assets of international terrorist organizations that are held within the United States. For purposes of this report, Treasury has used three documents to establish a baseline for determining which groups may fall within the definition of "international terrorist organization."

Section 302 of the Antiterrorism and Effective Death Penalty Act of 1996 ("Antiterrorism Act") authorizes the Secretary of State to designate organizations meeting stated requirements as foreign terrorist organizations, with prior notification to the Congress of the intent to designate. Upon that notification to the Congress, the Secretary of the Treasury may require U.S. financial institutions to block certain financial transactions involving assets of the foreign

organizations proposed for designation. Section 303 of the Act makes it a crime for persons within the U.S. or subject to U.S. jurisdiction to knowingly provide material support or resources to a foreign terrorist organization designated under section 302. Additionally, except as authorized by the Treasury Department, institutions in possession or control of funds in which a foreign terrorist organization or its agent has an interest are required to block such funds and file reports in accordance with Treasury Department regulations.

The first baseline document (Tab 1) is the list of Foreign Terrorist Organizations ("FTOs") designated by the Secretary of State on October 8, 1997 pursuant to the Antiterrorism Act, which became effective on April 24, 1996 (Tab 2). The Antiterrorism Act authorizes the Secretary of State, in consultation with the Departments of the Treasury and Justice, to designate certain organizations as foreign terrorist organizations. Thirty groups worldwide were designated by the Secretary of State as Foreign Terrorist Organizations. Notice of the groups that comprise the Foreign Terrorist Organizations (Tabs 1 and 14) are discussed in more detail in Part II.

The second baseline document (Tab 2) is Executive Order 12947, which became effective on January 24, 1995, and which blocks assets in the United States or within the possession or control of U.S. persons of terrorists who threaten to disrupt the Middle East Peace Process. Twelve Middle East terrorist groups were identified in the Executive order. Accompanying and subsequent notices of the groups and individuals who comprise the "List of Specially Designated Terrorists Who Threaten To Disrupt the Middle East Peace Process" (Tab 4), are discussed in more detail in Part II, which addresses international terrorists organizations, assets in the United States, and are included as individual attachments.

The third baseline document (Tab 3) is Executive order 13099, which became effective on August 25, 1998, and amended Executive Order 12947 by blocking the assets of three additional terrorists and one organization. Specifically, this order identifies Usama bin Muhammad bin Awad bin Ladin, the Islamic Army (and it's aliases), Abu Hafs al-Masri, and Rifa' i Ahmad Taha Musa as the individuals and organization added to the Annex of E.O. 12947.

PART I—KNOWN ASSETS OF STATE SPONSORS OF TERRORISM

The following information describes the nature and extent of assets within United States jurisdiction that belong to countries identified as state sponsors of terrorism. These countries and the gross amounts of their reported U.S.-based assets are (in millions): Cuba—$170.6; Iran—$22.5; Iraq—$2,200.2; Libya—$951.3; North Korea—$26.3; Sudan—$17.3; and Syria—$51.0. The total of their gross assets within U.S. jurisdiction is $3.439 billion dollars.

The assets reported for Iran in Exhibit A are diplomatic properties remaining blocked since the 1979–81 hostage crisis. A variety of other obligations to Iran may ultimately be determined to exist, depending on the outcome of cases before the Iran-U.S. Claims Tribunal.

Almost ninety-nine percent of the known assets within U.S. jurisdiction of state sponsors of terrorism are blocked by the Depart-

ment of the Treasury. However, not all of the blocked assets are literally within the United States. Substantial amounts, identified further below, are in foreign branches of U.S. banks. They are blocked because, under U.S. law, those bank branches are subject to United States jurisdiction. Consequently, those assets are not blocked at institutions within the United States.

Changes in the value, location, and composition of the blocked assets identified below occur over time as OFAC receives reports from holders of blocked assets identifying additional assets of sanctioned countries, updates information received from holders of blocked accounts on accrued interest and fluctuating market values, or licenses various transactions in accordance with U.S. foreign policy objectives and applicable law.

Exhibit A: Known Assets of State Sponsors of Terrorism

(amounts in millions of U.S. dollars)

Country	Amount	Explanation
Cuba	$170.6	Government of Cuba's blocked assets. Primarily bank accounts Source: OFAC, Treasury.
	(0.0)	(Blocked in U.S. banks' foreign branches.)
	$170.6	*Net Blocked Cuban Assets in U.S.*
Iran	*$22.5*	Government of Iran's diplomatic properties remaining blocked since the 1979–1981 hostage crisis. Primarily real estate. Source: OFAC, Treasury.
Iraq	$2,200.2	Government of Iraq's blocked assets. Primarily bank deposits. Source: OFAC, Treasury.
	($540.5)	(Blocked in U.S. banks, foreign branches.)
	($211.0)	(Loan to the United Nations in compliance with UNSCR 778.)
	$1,448.7	*Net Blocked Iraqi Assets in U.S.*
Libya	$951.3	Government of Libya's blocked assets. Primarily bank deposits. Source: OFAC, Treasury.
	($1.1)	(Blocked in U.S. banks' foreign branches.)
	$950.2	*Net Blocked Libyan Assets in U.S.*
North Korea	$26.3	North Korea's blocked bank deposits. Source: OFAC, Treasury.
	($2.8)	(Blocked in U.S. banks' foreign branches.)

Exhibit A: Known Assets of State Sponsors of Terrorism—Continued

(amounts in millions of U.S. dollars)

Country	Amount	Explanation
	$23.5	*Net Blocked North Korean Assets in U.S.*
Sudan	$17.3	Sudan's blocked bank deposits. Source: OFAC, Treasury.
	(0.4)	(Blocked in U.S. banks' foreign branches.)
	$16.9	*Net Blocked Sudan Assets in U.S.*
Syria	*$51.0*	Total liabilities of U.S. banking and non-banking institutions to Syrian institutions. Source: Treasury Bulletin, December 1998.
TOTALS:	$3,439.2	Total state sponsor assets within U.S. jurisdiction.
	($51.0)	(Unencumbered assets of Syria.)
	$3,388.2	Total blocked state sponsor assets within U.S. jurisdiction.
	($544.8)	(Total blocked in U.S. banks' foreign branches.)
	($211.0)	(UNSCR 778 loan [Iraq].)
	$2,632.4	*Total blocked state sponsor assets within the United States.*

PART II—ASSETS OF INTERNATIONAL TERRORIST ORGANIZATIONS

On January 23, 1995, President declared a national emergency pursuant to IEEPA (50 U.S.C. § 1701 et seq.) and other authorities and signed Executive Order 12947, "Prohibiting Transactions With Terrorists Who Threaten To Disrupt the Middle East Peace Process." Twelve Middle East terrorist organizations were named in the annex to the Order.[1] The Order prohibits transfers, including "charitable contributions," of funds, goods, or services to any orga-

[1] Tab 2—Executive Order 12947, 60 Federal Register 5–79 (January 25, 1995). The terrorist organizations identified in the Annex as originally published are: (1) Abu Nidal Organization (ANO), (2) Democratic Front for the Liberation of Palestine (DFLP), (3) Hizballah, (4) Islamic Gama' at (IG), (5) Islamic Resistance Movement (HAMAS), (6) Jihad, (7) Kach, (8) Kahane Chai, (9) Palestinian Islamic Jihad—Shiqaqi faction (PIJ), (10) Palestine Liberation Front—Abu Abbas faction (PFL-Abu Abbas), (11) Popular Front for the Liberation of Palestine (PFLP), and (1) Popular Front for the Liberation of Palestine—General Command (PFLP-GC).

On January 18, 1996, and again on January 21, 1997, January 21, 1998, and January 21, 1999 President Clinton signed a Notice that continues the national emergency with respect to foreign terrorists who threaten to disrupt the Middle East Peace Process. Those Notices (Tabs 8, 9, 10, and 11 of this report) were published on January 21, 1996, (61 *Federal Register* 1695), January 23, 1997, (62 *Federal Register* 3439), January 22, 1998, (63 *Federal Register* 3445), and January 22, 1999, (64 *Federal Register* 3393), respectively.

nizations or individuals designated under its authority; and it blocks all property in the United States or within the possession or control of a U.S. person in which there is an interest of any designated terrorist.

The Order also applies to persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, to be owned or controlled by, or to act for or on behalf of, any person designated under the order. Collectively, these prohibited persons are known as "Specially Designated Terrorists" or "SDTs." A concurrent notice from Treasury published 31 pseudonyms and name variations for the twelve terrorist organizations and added the identities of 18 individuals who have important roles with the terrorist groups.[2]

The Order also blocks the property and interests in property of persons found by the Secretary of State, in coordination with the Secretary of the Treasury and the Attorney General, (1) to have committed, or to pose a significant risk of committed acts of violence that have the purpose or effect of disrupting the Middle East Peace, or (2) to be assisting in, sponsoring or providing financial, material, or technological support for, or services in support of, terrorist activities.

On August 20, 1998, President Clinton signed Executive Order 13099, "Prohibiting Transactions With Terrorists Who Threaten To Disrupt the Middle East Peace Process" (Tab 3) to amend E.O. 12947 by adding three individuals and one organization to the annex of E.O. 12947:

Usama bin Muhammad bin Awad bin Ladin
Islamic Army (and it's aliases)
Abu Hafs al-Masri
Rifa' i Ahmad Taha Musa

Executive Order 13099 was issued under the same authority as E.O. 12947.

SDT Blockings under E.O. 12947 and E.O. 13099. Total current blockings by OFAC under the terrorism Executive orders are $24.4 million. These blockings involve assets of individuals added to the list of Specially Designated Terrorists subsequent to the publication of the first SDT list in January 1995. Accounts of agents acting on behalf of the terrorist organization HAMAS[3] are blocked in U.S. banks; and $200,000[4] of their U.S. real estate holdings are blocked. On June 9, 1998, the Department of Justice seized both the real estate holdings and the bank accounts of an SDT under

[2] Tab 4—60 *Federal Register* 5084 (January 25, 1995). This *Federal Register* Notice of the Specially Designated Terrorists List included the 12 organizations named in E.O. 12947, 31 pseudonyms and name variations for the groups, and 18 key individuals, including 9 aliases for them. See Tabs 5, 6 and 7 for additional individuals who have been added to the SDT list.

[3] Tab 5—The designation of Mohammad Abd El-Hamid Khalil SALAH as a Specially Designated Terrorist was published in the *Federal Register* on August 11, 1995. (60 *Federal Register* 41152).

Tab 6—The designation of Mousa Mohammed ABU MARZOOK as Specially Designated Terrorist was published in the *Federal Register* on August 29, 1995. (60 *Federal Register* 44932). The Israeli government had requested MARZOOK's extradition, but after the Israelis dropped their request, he was released from a jail in New York and went to Jordan.

[4] Two properties valued at $260,000 and that were blocked in August 1995, were sold in the summer of 1998. OFAC learned of the sale subsequently. OFAC enforcement action is pending.

an asset forfeiture statute. The matter is still pending in the Northern District of Illinois.

Furthermore, a bank account belonging to Ramadan Abdullah SHALLAH,[5] the head of the terrorist organization Palestinian Islamic Jihad (PIJ), has been blocked; and a related organization's account over which SHALLAH has held signature authority has been blocked. In addition, approximately $23.6 million in funds are currently blocked based upon an interest of Usama Bin Ladin.

The following chart (Exhibit B) details the assets of international terrorist organizations that have been blocked pursuant to E.O. 12947 and E.O. 13099.

Exhibit B: Blocked Assets Under the SDT Program

SDT Organization	Description	Amount
Hamas	Bank Accounts	$196,116.26
	Credit/Debit Cards	$671.83
	Real Estate	$460,000.00
	Total (Hamas)	$656,788.09
Palestinian Islamic Jihad	Bank Accounts	$18,293.31
Usama bin Ladin		$23,685,731.30
Total blocked assets of SDTs		$24,360,812.70

On April 24, 1996, Congress passed the Antiterrorism and Effective Death Penalty Act of 1996 ("Antiterrorism Act") (Tab 12) which in part prohibits persons within the U.S. or subject to the jurisdiction of the United States from knowingly providing material support or resources to a foreign terrorist organization.[6] Pursuant to the Antiterrorism Act, on October 8, 1997, 30 organizations were designated by the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, as Foreign Terrorist Organizations ("FTOs") (Tab 1).

The 30 FTOs include the 12 Middle East terrorist organizations previously designated under Executive Order 12947 and 18 other foreign organizations in South America, Europe, and Asia. Subsequent to the State Department's designation, the Treasury Department published a duplicate list of the 30 FTOs (Tab 14) in the Federal Register[7] in furtherance of section 303 of the Antiterrorism

[5] Tab 7—The designation of Dr. Ramadan Abdullah SHALLAH as a Specially Designated Terrorist was published in the *Federal Register* on November 27, 1995. (60 *Federal Register* 58435).

[6] Tab 12, Section 303.

[7] Tab 1—62 *Federal Register* 52650 (October 8, 1997). The 30 Foreign Terrorists Organizations designated by the Department of State are: (1) Abu Nidal Organization, (2) Abu Sayyaf Group, (3) Armed Islamic Group, (4) Aum Shinrikyo, (5) Democratic Front for the Liberation of Palestine, (6) Euzkadi Ta Askatasuna, (7) Gama'a al-Islamiyya, (8) HAMAS, (9) Harakat ul-Ansar, (10) Hizballah, (11) Japanese Red Army, (12) al-Jihad, (13) Kach, (14) Kahane Chai, (15) Khmer Rouge, (16) Kurdistan Worker's Party, (17) Liberation Tigers, (18) Manuel Rodriguez Patriotic Front Dissidents, (19) Mujahedin-e Khalq Organization, (20) National Liberation Army, (21) Palestinian Islamic Jihad—Shaqaqi Faction, (22) Palestine Liberation Front—Abu Abbas Faction, (23) Popular Front for the Liberation of Palestine, (24) Popular Front for the Liberation of Palestine—General Command, (25) Revolutionary Armed Forces of Colombia, (26) Revolutionary

Act which was implemented in part by the Foreign Terrorist Organizations Sanctions Regulations (31 CFR Part 597) published on October 8, 1997 (62 Federal Register 52493).

Section 302 of the Antiterrorism Act requires U.S. financial institutions to block financial transactions involving a proposed FTO's assets pursuant to an order of the Secretary of the Treasury. Pursuant to Section 303 of the Antiterrorism Act, financial institutions must retain or control those funds in which an FTO has an interest and report that information to the Treasury Department.

FTO Blockings under the Antiterrorism Act. To date, the Treasury Department has not blocked any financial transactions under the Antiterrorism Act. All blockings of foreign terrorist assets to date have occurred in the SDT program under the authority of IEEPA and Executive Orders 12947 and 13099. The Treasury Department continues to work closely with other agencies in seeking information concerning possible assets within the jurisdiction of the United States in which there may be an interest of any of the 30 FTOs.

Organization 17 November, (27) Revolutionary People's Liberation Party/Front, (28) Revolutionary People's Struggle, (29) Shining Path, and (30) Tupac Amaru Revolutionary Movement.

b. Office of Foreign Assets Control

(1) Terrorism: What You Need to Know about U.S. Sanctions

A summary of the "Terrorism Sanctions Regulations," Title 31 Part 595 of the U.S. Code of Federal Regulations, the "Terrorism List Governments Sanctions Regulations," Title 31 Part 596 of the U.S. Code of Federal Regulations, and the "Foreign Terrorist Organizations Sanctions Regulations," Title 31 Part 597 of the U.S. Code of Federal Regulations.

TERRORISM SANCTIONS REGULATIONS

On January 23, 1995, President Clinton signed Executive Order 12947, "Prohibiting Transactions with Terrorists Who Threaten to Disrupt the Middle East Peace Process." The Order blocked all property subject to U.S. jurisdiction in which there is any interest of 12 Middle East terrorist organizations included in an Annex to the Order. On August 21, 1998, the President amended Executive Order 12947, adding additional names. Executive Order 12947 blocks the property and interests in property of persons designated by the Secretary of State, in coordination with the Secretary of Treasury and the Attorney General, who are found (1) to have committed or to pose a significant risk of disrupting the Middle East peace process, or (2) to assist in, sponsor or provide financial, material, or technological support for, or services in support of, such acts of violence. The Order further blocks all property and interests in property subject to U.S. jurisdiction in which there is any interest of persons determined by the Secretary of the Treasury, in coordination with the Secretary of State and the Attorney General, to be owned or controlled by, or to act for or on behalf of any other person designated pursuant to the Order (collectively "Specially Designated Terrorists" or "SDTs"), designated by an "[SDT]" in the list at the end of this publication. The Order prohibits any transaction or dealing by a United States person or within the United States in property or interests in property of SDTs, including the making or receiving of any contribution of funds, goods, or services to or for the benefit of such persons. In implementation the Treasury Department has issued the Terrorism Sanctions Regulations.

Blockings must be reported within 10 days by fax to OFAC's Compliance Programs Division at 202/622–1657. Blocked accounts must be interest-bearing, at rates similar to those currently offered other depositors on deposits of comparable size and maturity. Maturities on blocked accounts may not exceed 90 days. Debits to blocked customer accounts are prohibited, although credits are authorized.

Corporate criminal penalties for violations of the International Emergency Economic Powers Act range up to $500,000; individual penalties range up to $250,000 and 10 years in jail. Civil penalties of up to $11,000 may also be imposed administratively.

TERRORISM LIST GOVERNMENTS SANCTIONS REGULATIONS

On April 24, 1996, President Clinton signed into law the Antiterrorism and Effective Death Penalty Act of 1996, Public Law 104–132, 110 Stat. 1214–1319. Section 321 of the Act makes it a criminal offense for U.S. persons, except as provided in regulations issued by the Secretary of the Treasury in consultation with the Secretary of State, to engage in financial transactions with the governments of countries designated under section 6(j) of the Export Administration Act of 1979, 50 U.S.C. App. 2405, as supporting international terrorism. U.S. persons who engage in such transactions are subject to criminal penalties under title 18, United States Code. In implementation of section 321, the Treasury Department has issued the Terrorism List Governments Sanctions Regulations.

The countries currently designated under section 6(j) of the Export Administration Act are Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria. The provisions of existing OFAC regulations governing Cuba, Iran, Iraq, Libya and North Korea continue in effect with the added authority of section 321. Financial transactions of U.S. persons with the governments of those five countries are governed by the separate parts of Title 31 Chapter V of the U.S. Code of Federal Regulations imposing economic sanctions on those countries and information about those programs is available in separate OFAC brochures.

Regarding the governments of countries designated under section 6(j) that are not otherwise subject to economic sanctions administered by OFAC, at present the government of Syria, the Terrorism List Governments Sanctions Regulations prohibit U.S. persons from receiving unlicensed donations and from engaging in financial transactions with respect to which the U.S. person knows or has reasonable cause to believe that the financial transaction poses a risk of furthering terrorist acts in the United States. Banks located in the United States and U.S. banks located offshore must reject transfers in the form of gifts or charitable contributions from the government of Syria, or from entities owned or controlled by the government of Syria, unless the bank knows or has reasonable cause to believe that the transaction poses a risk of furthering terrorism in the United States, in which case the funds must be retained by the bank. Banks should immediately notify OFAC Compliance about any retained items. Reject items must be reported within 10 business days of rejection. For the purposes of this program only, a financial transaction not originated by the government of Syria (including its central bank and government owned-or-controlled banks acting for their own accounts), but transferred to the United States through one of those banks, is not considered to be a prohibited financial transaction with the government of Syria.

FOREIGN TERRORIST ORGANIZATIONS SANCTIONS REGULATIONS

Section 302 of the Antiterrorism and Effective Death Penalty Act of 1996 also authorizes the Secretary of State to designate organizations as "Foreign Terrorist Organizations" ("FTOs"). The Act makes it a criminal offense for U.S. persons to provide material

support or resources to FTOs and requires financial institutions to block all funds in which FTOs or their agents have an interest. The term "financial institutions" comes from 31 U.S.C. 5312(a)(2) and is defined very broadly. Among the types of businesses covered by Treasury's Foreign Terrorist Organizations Sanctions Regulations, which implement Section 302 of the Act, are banks, securities and commodities broker/dealers, investment companies, currency exchanges, issuers, redeemers, and cashiers of traveler's checks, checks, money orders, or similar instruments, credit card system operators, insurance companies, dealers in precious metals, stones or jewels, pawnbrokers, loan and finance companies, travel agencies, licensed money transmitters, telegraph companies, businesses engaged in vehicle sales, including automobile, airplane or boat sales, persons involved in real estate closings or settlements, and casinos. Such "financial institutions" must notify OFAC Compliance about any blocked funds within ten days of blocking. The Act provides for civil penalties to be assessed against financial institutions for failing to block or report the blocking of FTO funds in an amount equal to $50,000 per violation or twice the amount which ought to have been blocked or reported, whichever is greater. Foreign Terrorist Organizations and their agents are identified by an "[FTO]" in the list which follows.

Named Terrorist Organizations

17 NOVEMBER (a.k.a. REVOLUTIONARY ORGANIZATION 17 NOVEMBER; a.k.a. EPANASTATIKI ORGANOSI 17 NOEMVRI) [FTO]

A.I.C. COMPREHENSIVE RESEARCH INSTITUTE (a.k.a. AUM SUPREME TRUTH; a.k.a. A.I.C. SOGO KENKYUSHO; a.k.a. AUM SHINRIKYO) [FTO]

A.I.C. SOGO KENKYUSHO (a.k.a. AUM SUPREME TRUTH; a.k.a. AUM SHINRIKYO; a.k.a. A.I.C. COMPREHENSIVE RESEARCH INSTITUTE) [FTO]

ABU GHUNAYM SQUAD OF THE HIZBALLAH BAYT AL-MAQDIS (a.k.a. PIJ-SHAQAQI FACTION; a.k.a. PIJ; a.k.a. ISLAMIC JIHAD IN PALESTINE; a.k.a. ISLAMIC JIHAD OF PALESTINE; a.k.a. PALESTINE ISLAMIC JIHAD - SHAQAQI FACTION) [SDT] [FTO]

ABU NIDAL ORGANIZATION (a.k.a. ANO; a.k.a. BLACK SEPTEMBER; a.k.a. FATAH REVOLUTIONARY COUNCIL; a.k.a. ARAB REVOLUTIONARY COUNCIL; a.k.a. ARAB REVOLUTIONARY BRIGADES; a.k.a. REVOLUTIONARY ORGANIZATION OF SOCIALIST MUSLIMS) [SDT] [FTO]

ABU SAYYAF GROUP (a.k.a. AL HARAKAT AL ISLAMIYYA) [FTO] AIG (a.k.a. GIA; a.k.a. GROUPEMENT ISLAMIQUE ARME; a.k.a. ARMED ISLAMIC GROUP; a.k.a. AL-JAMA'AH AL-ISLAMIYAH AL-MUSALLAH) [FTO]

AIIB (a.k.a. NIPPON SEKIGUN; a.k.a. NIHON SEKIGUN; a.k.a. ANTI-IMPERIALIST INTERNATIONAL BRIGADE; a.k.a. HOLY WAR BRIGADE; a.k.a. ANTI-WAR DEMOCRATIC FRONT; a.k.a. JRA; a.k.a. JAPANESE RED ARMY) [FTO]

AL-FARAN (a.k.a. HUA; a.k.a. AL-HADID; a.k.a. AL-HADITH; a.k.a. HARAKAT UL-ANSAR) [FTO]

AL-GAMA'AT (a.k.a. ISLAMIC GROUP; a.k.a. IG; a.k.a. EGYPTIAN AL-GAMA'AT AL-ISLAMIYYA; a.k.a. ISLAMIC GAMA'AT; a.k.a. GAMA'A AL-ISLAMIYYA) [SDT] [FTO]

AL-HADID (a.k.a. HUA; a.k.a. HARAKAT UL-ANSAR; a.k.a. AL-HADITH; a.k.a. AL-FARAN) [FTO]

AL-HADITH (a.k.a. HUA; a.k.a. AL-HADID; a.k.a. HARAKAT UL-ANSAR; a.k.a. AL-FARAN) [FTO]

AL HARAKAT AL ISLAMIYYA (a.k.a. ABU SAYYAF GROUP) [FTO]

AL-JAMA'AH AL-ISLAMIYAH AL-MUSALLAH (a.k.a. GIA; a.k.a. GROUPEMENT ISLAMIQUE ARME; a.k.a. AIG; a.k.a. ARMED ISLAMIC GROUP) [FTO]

AL-JIHAD (a.k.a. EGYPTIAN AL-JIHAD; a.k.a. VANGUARDS OF CONQUEST; a.k.a. VANGUARDS OF VICTORY; a.k.a. TALAI'I AL-FATH; a.k.a. TALA'AH AL-FATAH; a.k.a. TALA'AL AL-FATEH; a.k.a. TALA' AL-FATEH; a.k.a. TALAAH AL-FATAH; a.k.a. TALA'AL-FATEH; a.k.a. NEW JIHAD; a.k.a. EGYPTIAN ISLAMIC JIHAD; a.k.a. JIHAD GROUP) [SDT] [FTO]

AL-QAIDA (a.k.a. ISLAMIC ARMY; a.k.a. ISLAMIC SALVATION FOUNDATION; a.k.a. THE GROUP FOR THE PRESERVATION OF THE HOLY SITES; a.k.a. THE ISLAMIC ARMY FOR THE LIBERATION OF THE HOLY PLACES; a.k.a. THE WORLD ISLAMIC FRONT FOR JIHAD AGAINST JEWS AND CRUSADERS) [SDT]

ANO (a.k.a. ABU NIDAL ORGANIZATION; a.k.a. BLACK SEPTEMBER; a.k.a. FATAH REVOLUTIONARY COUNCIL; a.k.a. ARAB REVOLUTIONARY COUNCIL; a.k.a. ARAB REVOLUTIONARY BRIGADES; a.k.a. REVOLUTIONARY ORGANIZATION OF SOCIALIST MUSLIMS) [SDT] [FTO]

ANSAR ALLAH (a.k.a. HIZBALLAH; a.k.a. ISLAMIC JIHAD; a.k.a. ISLAMIC JIHAD ORGANIZATION; a.k.a. REVOLUTIONARY JUSTICE ORGANIZATION; a.k.a. ORGANIZATION OF THE OPPRESSED ON EARTH; a.k.a. ISLAMIC JIHAD FOR THE LIBERATION OF PALESTINE; a.k.a. ORGANIZATION OF RIGHT AGAINST WRONG; a.k.a. PARTY OF GOD; a.k.a. FOLLOWERS OF THE PROPHET MUHAMMAD) [SDT] [FTO]

ANTI-IMPERIALIST INTERNATIONAL BRIGADE (a.k.a. NIPPON SEKIGUN; a.k.a. NIHON SEKIGUN; a.k.a. JAPANESE RED ARMY; a.k.a. HOLY WAR BRIGADE; a.k.a. ANTI-WAR DEMOCRATIC FRONT; a.k.a. JRA; a.k.a. AIIB) [FTO]

ANTI-WAR DEMOCRATIC FRONT (a.k.a. NIPPON SEKIGUN; a.k.a. NIHON SEKIGUN; a.k.a. ANTI-IMPERIALIST INTERNATIONAL BRIGADE; a.k.a. HOLY WAR BRIGADE; a.k.a. JAPANESE RED ARMY; a.k.a. JRA; a.k.a. AIIB) [FTO]

ARAB REVOLUTIONARY BRIGADES (a.k.a. ANO; a.k.a. BLACK SEPTEMBER; a.k.a. FATAH REVOLUTIONARY COUNCIL; a.k.a. ARAB REVOLUTIONARY COUNCIL; a.k.a. ABU NIDAL ORGANIZATION; a.k.a. REVOLUTIONARY ORGAIZATION OF SOCIALIST MUSLIMS) [SDT] [FTO]

ARAB REVOLUTIONARY COUNCIL (a.k.a. ANO; a.k.a. BLACK SEPTEMBER; a.k.a. FATAH REVOLUTIONARY COUNCIL; a.k.a. ABU NIDAL ORGANIZATION; a.k.a. ARAB REVOLU-

TIONARY BRIGADES; a.k.a. REVOLUTIONARY ORGANIZATION OF SOCIALIST MUSLIMS) [SDT] [FTO]

ARMED ISLAMIC GROUP (a.k.a. GIA; a.k.a. GROUPEMENT ISLAMIQUE ARME; a.k.a. AIG; a.k.a. AL-JAMA'AH AL-ISLAMIYAH AL-MUSALLAH) [FTO]

AUM SHINRIKYO (a.k.a. AUM SUPREME TRUTH; a.k.a. A.I.C. SOGO KENKYUSHO; a.k.a. A.I.C. COMPREHENSIVE RESEARCH INSTITUTE) [FTO]

AUM SUPREME TRUTH (a.k.a. AUM SHINRIKYO; a.k.a. A.I.C. SOGO KENKYUSHO; a.k.a. A.I.C. COMPREHENSIVE RESEARCH INSTITUTE) [FTO]

BASQUE FATHERLAND AND LIBERTY (a.k.a. ETA; a.k.a. EUZKADI TA ASKATASUNA)[FTO]

BLACK SEPTEMBER (a.k.a. ANO; a.k.a. ABU NIDAL ORGANIZATION; a.k.a. FATAH REVOLUTIONARY COUNCIL; a.k.a. ARAB REVOLUTIONARY COUNCIL; a.k.a. ARAB REVOLUTIONARY BRIGADES; a.k.a. REVOLUTIONARY ORGANIZATION OF SOCIALIST MUSLIMS) [SDT] [FTO]

COMMITTEE FOR THE SAFETY OF THE ROADS (a.k.a. REPRESSION OF TRAITORS; a.k.a. KACH; a.k.a. DIKUY BOGDIM; a.k.a. STATE OF JUDEA; a.k.a. DOV; a.k.a. SWORD OF DAVID; a.k.a. JUDEA POLICE) [SDT] [FTO]

DEMOCRATIC FRONT FOR THE LIBERATION OF PALESTINE (a.k.a. DEMOCRATIC FRONT FOR THE LIBERATION OF PALESTINE - HAWATMEH FACTION; a.k.a. DFLP; a.k.a. RED STAR FORCES; a.k.a. RED STAR BATTALIONS) [SDT] [FTO]

DEMOCRATIC FRONT FOR THE LIBERATION OF PALESTINE - HAWATMEH FACTION (a.k.a. DEMOCRATIC FRONT FOR THE LIBERATION OF PALESTINE; a.k.a. DFLP; a.k.a. RED STAR FORCES; a.k.a. RED STAR BATTALIONS) [SDT] [FTO]

DEV SOL (a.k.a. DEVRIMCI HALK KURTULUS PARTISI-CEPHESI; a.k.a. DHKP/C; a.k.a. DEVRIMCI SOL; a.k.a. REVOLUTIONARY LEFT; a.k.a. REVOLUTIONARY PEOPLE'S LIBERATION PARTY/FRONT; a.k.a. DEV SOL SILAHLI DEVRIMCI BIRLIKLERI; a.k.a. DEV SOL SDB; a.k.a. DEV SOL ARMED REVOLUTIONARY UNITS) [FTO]

DEV SOL ARMED REVOLUTIONARY UNITS (a.k.a. DEVRIMCI HALK KURTULUS PARTISI-CEPHESI; a.k.a. DHKP/C; a.k.a. DEVRIMCI SOL; a.k.a. REVOLUTIONARY LEFT; a.k.a. DEV SOL; a.k.a. DEV SOL SILAHLI DEVRIMCI BIRLIKLERI; a.k.a. DEV SOL SDB; a.k.a. REVOLUTIONARY PEOPLE'S LIBERATION PARTY/FRONT) [FTO]

DEV SOL SDB (a.k.a. DEVRIMCI HALK KURTULUS PARTISI-CEPHESI; a.k.a. DHKP/C; a.k.a. DEVRIMCI SOL; a.k.a. REVOLUTIONARY LEFT; a.k.a. DEV SOL; a.k.a. DEV SOL SILAHLI DEVRIMCI BIRLIKLERI; a.k.a. REVOLUTIONARY PEOPLE'S LIBERATION PARTY/FRONT; a.k.a. DEV SOL ARMED REVOLUTIONARY UNITS) [FTO]

DEV SOL SILAHLI DEVRIMCI BIRLIKLERI (a.k.a. DEVRIMCI HALK KURTULUS PARTISI-CEPHESI; a.k.a. DHKP/C; a.k.a. DEVRIMCI SOL; a.k.a. REVOLUTIONARY LEFT; a.k.a. DEV SOL; a.k.a. REVOLUTIONARY PEOPLE'S LIBERATION

PARTY/FRONT; a.k.a. DEV SOL SDB; a.k.a. DEV SOL ARMED REVOLUTIONARY UNITS) [FTO]

DEVRIMCI HALK KURTULUS PARTISI-CEPHESI (a.k.a. REVOLUTIONARY PEOPLE'S LIBERATION PARTY/FRONT; a.k.a. DHKP/C; a.k.a. DEVRIMCI SOL; a.k.a. REVOLUTIONARY LEFT; a.k.a. DEV SOL; a.k.a. DEV SOL SILAHLI DEVRIMCI BIRLIKLERI; a.k.a. DEV SOL SDB; a.k.a. DEV SOL ARMED REVOLUTIONARY UNITS) [FTO]

DEVRIMCI SOL (a.k.a. DEVRIMCI HALK KURTULUS PARTISI-CEPHESI; a.k.a. DHKP/C; a.k.a. REVOLUTIONARY PEOPLE'S LIBERATION PARTY/FRONT; a.k.a. REVOLUTIONARY LEFT; a.k.a. DEV SOL; a.k.a. DEV SOL SILAHLI DEVRIMCI BIRLIKLERI; a.k.a. DEV SOL SDB; a.k.a. DEV SOL ARMED REVOLUTIONARY UNITS) [FTO]

DFLP (a.k.a. DEMOCRATIC FRONT FOR THE LIBERATION OF PALESTINE; a.k.a. DEMOCRATIC FRONT FOR THE LIBERATION OF PALESTINE - HAWATMEH FACTION; a.k.a. RED STAR FORCES; a.k.a. RED STAR BATTALIONS) [SDT] [FTO]

DHKP/C (a.k.a. DEVRIMCI HALK KURTULUS PARTISI-CEPHESI; a.k.a. REVOLUTIONARY PEOPLE'S LIBERATION PARTY/FRONT; a.k.a. DEVRIMCI SOL; a.k.a. REVOLUTIONARY LEFT; a.k.a. DEV SOL; a.k.a. DEV SOL SILAHLI DEVRIMCI BIRLIKLERI; a.k.a. DEV SOL SDB; a.k.a. DEV SOL ARMED REVOLUTIONARY UNITS) [FTO]

DIKUY BOGDIM (a.k.a. REPRESSION OF TRAITORS; a.k.a. KACH; a.k.a. DOV; a.k.a. STATE OF JUDEA; a.k.a. COMMITTEE FOR THE SAFETY OF THE ROADS; a.k.a. SWORD OF DAVID; a.k.a. JUDEA POLICE) [SDT] [FTO]

DOV (a.k.a. REPRESSION OF TRAITORS; a.k.a. KACH; a.k.a. DIKUY BOGDIM; a.k.a. STATE OF JUDEA; a.k.a. COMMITTEE FOR THE SAFETY OF THE ROADS; a.k.a. SWORD OF DAVID; a.k.a. JUDEA POLICE) [SDT] [FTO]

EGP (a.k.a. SENDERO LUMINOSO; a.k.a. SL; a.k.a. PARTIDO COMUNISTA DEL PERU EN EL SENDERO LUMINOSO DE JOSE CARLOS MARIATGUI (COMMUNIST PARTY OF PERU ON THE SHINING PATH OF JOSE CARLOS MARIATEGUI); a.k.a. PARTIDO COMUNISTA DEL PERU (COMMUNIST PARTY OF PERU); a.k.a. PCP; a.k.a. SOCORRO POPULAR DEL PERU (PEOPLE'S AID OF PERU); a.k.a. SPP; a.k.a EJERCITO GUERRILLERO POPULAR (PEOPLE'S GUERRILLA ARMY); a.k.a. SHINING PATH; a.k.a. EJERCITO POPULAR DE LIBERACION (PEOPLE'S LIBERATION ARMY); a.k.a. EPL) [FTO]

EGYPTIAN AL-GAMA'AT AL-ISLAMIYYA (a.k.a. ISLAMIC GROUP; a.k.a. IG; a.k.a. AL-GAMA'AT; a.k.a. ISLAMIC GAMA'AT; a.k.a. GAMA'A AL-ISLAMIYYA) [SDT] [FTO]

EGYPTIAN AL-JIHAD (a.k.a. AL-JIHAD; a.k.a. VANGUARDS OF CONQUEST; a.k.a. VANGUARDS OF VICTORY; a.k.a. TALAI'I AL-FATH; a.k.a. TALA'AH AL-FATAH; a.k.a. TALA'AL AL-FATEH; a.k.a. TALA' AL-FATEH; a.k.a. TALAAH AL-FATAH; a.k.a. TALA'AL-FATEH; a.k.a. NEW JIHAD; a.k.a. EGYPTIAN ISLAMIC JIHAD; a.k.a. JIHAD GROUP) [SDT] [FTO]

EGYPTIAN ISLAMIC JIHAD (a.k.a. EGYPTIAN AL-JIHAD; a.k.a. VANGUARDS OF CONQUEST; a.k.a. VANGUARDS OF VICTORY; a.k.a. TALAI'I AL-FATH; a.k.a. TALA'AH AL-FATAH; a.k.a. TALA'AL AL-FATEH; a.k.a. TALA' AL-FATEH; a.k.a. TALAAH AL-FATAH; a.k.a. TALA'AL-FATEH; a.k.a. NEW JIHAD; a.k.a. AL-JIHAD; a.k.a. JIHAD GROUP) [SDT] [FTO]

EJERCITO DE LIBERACION NACIONAL (a.k.a. NATIONAL LIBERATION ARMY; a.k.a. ELN) [FTO]

EJERCITO GUERRILLERO POPULAR (PEOPLE'S GUERRILLA ARMY) (a.k.a. SENDERO LUMINOSO; a.k.a. SL; a.k.a. PARTIDO COMUNISTA DEL PERU EN EL SENDERO LUMINOSO DE JOSE CARLOS MARIATEGUI (COMMUNIST PARTY OF PERU ON THE SHINING PATH OF JOSE CARLOS MARIATEGUI); a.k.a. PARTIDO COMUNISTA DEL PERU (COMMUNIST PARTY OF PERU); a.k.a. PCP; a.k.a. SOCORRO POPULAR DEL PERU (PEOPLE'S AID OF PERU); a.k.a. SPP; a.k.a SHINING PATH; a.k.a. EGP; a.k.a. EJERCITO POPULAR DE LIBERACION (PEOPLE'S LIBERATION ARMY); a.k.a. EPL) [FTO]

EJERCITO POPULAR DE LIBERACION (PEOPLE'S LIBERATION ARMY) (a.k.a. SENDERO LUMINOSO; a.k.a. SL; a.k.a. PARTIDO COMUNISTA DEL PERU EN EL SENDERO LUMINOSO DE JOSE CARLOS MARIATEGUI (COMMUNIST PARTY OF PERU ON THE SHINING PATH OF JOSE CARLOS MARIATEGUI); a.k.a. PARTIDO COMUNISTA DEL PERU (COMMUNIST PARTY OF PERU); a.k.a. PCP; a.k.a. SOCORRO POPULAR DEL PERU (PEOPLE'S AID OF PERU); a.k.a. SPP; a.k.a EJERCITO GUERRILLERO POPULAR (PEOPLE'S GUERRILLA ARMY); a.k.a. EGP; a.k.a. SHINING PATH ; a.k.a. EPL) [FTO]

ELA (a.k.a. POPULAR REVOLUTIONARY STRUGGLE; a.k.a. EPANASTATIKOS LAIKOS AGONAS; a.k.a. REVOLUTIONARY POPULAR STRUGGLE; a.k.a. REVOLUTIONARY PEOPLE'S STRUGGLE) [FTO]

ELLALAN FORCE (a.k.a. LIBERATION TIGERS OF TAMIL EELAM; a.k.a. LTTE; a.k.a. TAMIL TIGERS) [FTO]

ELN (a.k.a. NATIONAL LIBERATION ARMY; a.k.a. EJERCITO DE LIBERACION NACIONAL) [FTO]

EPANASTATIKI ORGANOSI 17 NOEMVRI (a.k.a. REVOLUTIONARY ORGANIZATION 17 NOVEMBER; a.k.a. 17 NOVEMBER) [FTO]

EPANASTATIKOS LAIKOS AGONAS (a.k.a. POPULAR REVOLUTIONARY STRUGGLE; a.k.a. ELA; a.k.a. REVOLUTIONARY POPULAR STRUGGLE; a.k.a. REVOLUTIONARY PEOPLE'S STRUGGLE) [FTO]

EPL (a.k.a. SENDERO LUMINOSO; a.k.a. SL; a.k.a. PARTIDO COMUNISTA DEL PERU EN EL SENDERO LUMINOSO DE JOSE CARLOS MARIATEGUI (COMMUNIST PARTY OF PERU ON THE SHINING PATH OF JOSE CARLOS MARIATEGUI); a.k.a. PARTIDO COMUNISTA DEL PERU (COMMUNIST PARTY OF PERU); a.k.a. PCP; a.k.a. SOCORRO POPULAR DEL PERU (PEOPLE'S AID OF PERU); a.k.a. SPP; a.k.a EJERCITO GUERRILLERO POPULAR (PEOPLE'S GUERRILLA ARMY); a.k.a. EGP; a.k.a.

EJERCITO POPULAR DE LIBERACION (PEOPLE'S LIBERATION ARMY); a.k.a. SHINING PATH) [FTO]

ETA (a.k.a. EUZKADI TA ASKATASUNA; a.k.a. BASQUE FATHERLAND AND LIBERTY) [FTO]

EUZKADI TA ASKATASUNA (a.k.a. BASQUE FATHERLAND AND LIBERTY; a.k.a. ETA) [FTO]

FARC (a.k.a. REVOLUTIONARY ARMED FORCES OF COLOMBIA; a.k.a. FUERZAS ARMADAS REVOLUCIONARIAS DE COLOMBIA) [FTO]

FATAH REVOLUTIONARY COUNCIL (a.k.a. ANO; a.k.a. BLACK SEPTEMBER; a.k.a. ABU NIDAL ORGANIZATION a.k.a. ARAB REVOLUTIONARY COUNCIL; a.k.a. ARAB REVOLUTIONARY BRIGADES; a.k.a. REVOLUTIONARY ORGANIZATION OF SOCIALIST MUSLIMS) [SDT] [FTO]

FOLLOWERS OF THE PROPHET MUHAMMAD (a.k.a. HIZBALLAH; a.k.a. ISLAMIC JIHAD; a.k.a. ISLAMIC JIHAD ORGANIZATION; a.k.a. REVOLUTIONARY JUSTICE ORGANIZATION; a.k.a. ORGANIZATION OF THE OPPRESSED ON EARTH; a.k.a. ISLAMIC JIHAD FOR THE LIBERATION OF PALESTINE; a.k.a. ORGANIZATION OF RIGHT AGAINST WRONG; a.k.a. PARTY OF GOD; a.k.a. ANAR ALLAH) [SDT] [FTO]

FPMR (a.k.a. MANUEL RODRIGUEZ PATRIOTIC FRONT DISSIDENTS; a.k.a. FRENTE PATRIOTICO MANUEL RODRIGUEZ - AUTONOMOS; a.k.a. FPMR/A; a.k.a. MANUEL RODRIGUEZ PATRIOTIC FRONT; a.k.a. FRENTE PATRIOTICO MANUEL RODRIGUEZ; a.k.a. FPMR/D) [FTO]

FPMR/A (a.k.a. MANUEL RODRIGUEZ PATRIOTIC FRONT DISSIDENTS; a.k.a. FRENTE PATRIOTICO MANUEL RODRIGUEZ - AUTONOMOS; a.k.a. FPMR/D ; a.k.a. MANUEL RODRIGUEZ PATRIOTIC FRONT; a.k.a. FRENTE PATRIOTICO MANUEL RODRIGUEZ; a.k.a. FPMR) [FTO]

FPMR/D (a.k.a. MANUEL RODRIGUEZ PATRIOTIC FRONT DISSIDENTS; a.k.a. FRENTE PATRIOTICO MANUEL RODRIGUEZ - AUTONOMOS; a.k.a. FPMR/A; a.k.a. MANUEL RODRIGUEZ PATRIOTIC FRONT; a.k.a. FRENTE PATRIOTICO MANUEL RODRIGUEZ; a.k.a. FPMR) [FTO]

FRENTE PATRIOTICO MANUEL RODRIGUEZ (a.k.a. MANUEL RODRIGUEZ PATRIOTIC FRONT DISSIDENTS; a.k.a. FRENTE PATRIOTICO MANUEL RODRIGUEZ - AUTONOMOS; a.k.a. FPMR/D ; a.k.a. MANUEL RODRIGUEZ PATRIOTIC FRONT; a.k.a. FPMR/A; a.k.a. FPMR) [FTO]

FRENTE PATRIOTICO MANUEL RODRIGUEZ - AUTONOMOS (a.k.a. MANUEL RODRIGUEZ PATRIOTIC FRONT DISSIDENTS; a.k.a. FPMR/D ; a.k.a. FPMR/A; a.k.a. MANUEL RODRIGUEZ PATRIOTIC FRONT; a.k.a. FRENTE PATRIOTICO MANUEL RODRIGUEZ; a.k.a. FPMR) [FTO]

FUERZAS ARMADAS REVOLUCIONARIAS DE COLOMBIA (a.k.a. REVOLUTIONARY ARMED FORCES OF COLOMBIA; a.k.a. FARC) [FTO]

GAMA'A AL-ISLAMIYYA (a.k.a. ISLAMIC GROUP; a.k.a. IG; a.k.a. AL-GAMA'AT; a.k.a. ISLAMIC GAMA'AT; a.k.a. EGYPTIAN AL-GAMA'AT AL-ISLAMIYYA) [SDT] [FTO]

GIA (a.k.a. ARMED ISLAMIC GROUP; a.k.a. GROUPEMENT ISLAMIQUE ARME; a.k.a. AIG; a.k.a. AL-JAMA'AH AL-ISLAMIYAH AL-MUSALLAH) [FTO]

GROUP FOR THE PRESERVATION OF THE HOLY SITES, THE (a.k.a. AL-QAIDA; a.k.a. ISLAMIC ARMY; a.k.a. ISLAMIC SALVATION FOUNDATION; a.k.a. THE ISLAMIC ARMY FOR THE LIBERATION OF THE HOLY PLACES; a.k.a. THE WORLD ISLAMIC FRONT FOR JIHAD AGAINST JEWS AND CRUSADERS) [SDT] GROUPEMENT ISLAMIQUE ARME (a.k.a. GIA; a.k.a. ARMED ISLAMIC GROUP; a.k.a. AIG; a.k.a. AL-JAMA'AH AL-ISLAMIYAH AL-MUSALLAH) [FTO]

HALHUL GANG (a.k.a. PFLP; a.k.a. RED EAGLES; a.k.a. RED EAGLE GROUP; a.k.a. RED EAGLE GANG; a.k.a. POPULAR FRONT FOR THE LIBERATION OF PALESTINE; a.k.a. HALHUL SQUAD) [SDT] [FTO]

HALHUL SQUAD (a.k.a. PFLP; a.k.a. RED EAGLES; a.k.a. RED EAGLE GROUP; a.k.a. RED EAGLE GANG; a.k.a. HALHUL GANG; a.k.a. POPULAR FRONT FOR THE LIBERATION OF PALESTINE) [SDT] [FTO]

HAMAS (a.k.a. ISLAMIC RESISTANCE MOVEMENT; a.k.a. HARAKAT AL-MUQAWAMA AL-ISLAMIYA; a.k.a. STUDENTS OF AYYASH; a.k.a. STUDENTS OF THE ENGINEER; a.k.a. YAHYA AYYASH UNITS; a.k.a. IZZ AL-DIN AL-QASSIM BRIGADES; a.k.a. IZZ AL-DIN AL-QASSIM FORCES; a.k.a. IZZ AL-DIN AL-QASSIM BATTALIONS; a.k.a. IZZ AL-DIN AL QASSAM BRIGADES; a.k.a. IZZ AL-DIN AL QASSAM FORCES; a.k.a. IZZ AL-DIN AL QASSAM BATTALIONS) [SDT] [FTO]

HARAKAT AL-MUQAWAMA AL-ISLAMIYA (a.k.a. ISLAMIC RESISTANCE MOVEMENT; a.k.a. HAMAS; a.k.a. STUDENTS OF AYYASH; a.k.a. STUDENTS OF THE ENGINEER; a.k.a. YAHYA AYYASH UNITS; a.k.a. IZZ AL-DIN AL-QASSIM BRIGADES; a.k.a. IZZ AL-DIN AL-QASSIM FORCES; a.k.a. IZZ AL-DIN AL-QASSIM BATTALIONS; a.k.a. IZZ AL-DIN AL QASSAM BRIGADES; a.k.a. IZZ AL-DIN AL QASSAM FORCES; a.k.a. IZZ AL-DIN AL QASSAM BATTALIONS) [SDT] [FTO]

HARAKAT UL-ANSAR (a.k.a. HUA; a.k.a. AL-HADID; a.k.a. AL-HADITH; a.k.a. AL-FARAN) [FTO]

HIZBALLAH (a.k.a. PARTY OF GOD; a.k.a. ISLAMIC JIHAD; a.k.a. ISLAMIC JIHAD ORGANIZATION; a.k.a. REVOLUTIONARY JUSTICE ORGANIZATION; a.k.a. ORGANIZATION OF THE OPPRESSED ON EARTH; a.k.a. ISLAMIC JIHAD FOR THE LIBERATION OF PALESTINE; a.k.a. ORGANIZATION OF RIGHT AGAINST WRONG; a.k.a. ANSAR ALLAH; a.k.a. FOLLOWERS OF THE PROPHET MUHAMMAD) [SDT] [FTO]

HOLY WAR BRIGADE (a.k.a. NIPPON SEKIGUN; a.k.a. NIHON SEKIGUN; a.k.a. ANTI-IMPERIALIST INTERNATIONAL BRIGADE; a.k.a. JAPANESE RED ARMY; a.k.a. ANTI-WAR DEMOCRATIC FRONT; a.k.a. JRA; a.k.a. AIIB) [FTO]

HUA (a.k.a. HARAKAT UL-ANSAR; a.k.a. AL-HADID; a.k.a. AL-HADITH; a.k.a. AL-FARAN) [FTO]

IG (a.k.a. ISLAMIC GROUP; a.k.a. GAMA'A AL-ISLAMIYYA; a.k.a. AL-GAMA'AT; a.k.a. ISLAMIC GAMA'AT; a.k.a. EGYPTIAN AL-GAMA'AT AL-ISLAMIYYA) [SDT] [FTO]

ISLAMIC ARMY (a.k.a. AL-QAIDA; a.k.a. ISLAMIC SALVATION FOUNDATION; a.k.a. THE GROUP FOR THE PRESERVATION OF THE HOLY SITES; a.k.a. THE ISLAMIC ARMY FOR THE LIBERATION OF THE HOLY PLACES; a.k.a. THE WORLD ISLAMIC FRONT FOR JIHAD AGAINST JEWS AND CRUSADERS) [SDT]

ISLAMIC ARMY FOR THE LIBERATION OF THE HOLY PLACES, THE (a.k.a. AL- QAIDA; a.k.a. ISLAMIC ARMY; a.k.a. ISLAMIC SALVATION FOUNDATION; a.k.a. THE GROUP FOR THE PRESERVATION OF THE HOLY SITES; a.k.a. THE WORLD ISLAMIC FRONT FOR JIHAD AGAINST JEWS AND CRUSADERS) [SDT]

ISLAMIC GAMA'AT (a.k.a. ISLAMIC GROUP; a.k.a. IG; a.k.a. AL-GAMA'AT; a.k.a. GAMA'A AL-ISLAMIYYA; a.k.a. EGYPTIAN AL-GAMA'AT AL-ISLAMIYYA) [SDT] [FTO]

ISLAMIC GROUP (a.k.a. EGYPTIAN AL-GAMA'AT AL-ISLAMIYYA; a.k.a. IG; a.k.a. AL-GAMA'A; a.k.a. ISLAMIC GAMA'AT; a.k.a. GAMA'A AL-ISLAMIYYA) [SDT] [FTO]

ISLAMIC JIHAD (a.k.a. PARTY OF GOD; a.k.a. HIZBALLAH; a.k.a. ISLAMIC JIHAD ORGANIZATION; a.k.a. REVOLUTIONARY JUSTICE ORGANIZATION; a.k.a. ORGANIZATION OF THE OPPRESSED ON EARTH; a.k.a. ISLAMIC JIHAD FOR THE LIBERATION OF PALESTINE; a.k.a. ORGANIZATION OF RIGHT AGAINST WRONG; a.k.a. ANSAR ALLAH; a.k.a. FOLLOWERS OF THE PROPHET MUHAMMAD) [SDT] [FTO]

ISLAMIC JIHAD FOR THE LIBERATION OF PALESTINE (a.k.a. PARTY OF GOD; a.k.a. ISLAMIC JIHAD; a.k.a. ISLAMIC JIHAD ORGANIZATION; a.k.a. REVOLUTIONARY JUSTICE ORGANIZATION; a.k.a. ORGANIZATION OF THE OPPRESSED ON EARTH; a.k.a. HIZBALLAH; a.k.a. ORGANIZATION OF RIGHT AGAINST WRONG; a.k.a. ANSAR ALLAH; a.k.a. FOLLOWERS OF THE PROPHET MUHAMMAD) [SDT] [FTO]

ISLAMIC JIHAD IN PALESTINE (a.k.a. PIJ-SHAQAQI FACTION; a.k.a. PIJ; a.k.a. PALESTINE ISLAMIC JIHAD - SHAQAQI FACTION; a.k.a. ISLAMIC JIHAD OF PALESTINE; a.k.a. ABU GHUNAYM SQUAD OF THE HIZBALLAH BAYT AL-MAQDIS) [SDT] [FTO]

ISLAMIC JIHAD OF PALESTINE (a.k.a. PIJ-SHAQAQI FACTION; a.k.a. PIJ; a.k.a. ISLAMIC JIHAD IN PALESTINE; a.k.a. PALESTINE ISLAMIC JIHAD - SHAQAQI FACTION ; a.k.a. ABU GHUNAYM SQUAD OF THE HIZBALLAH BAYT AL-MAQDIS) [SDT] [FTO]

ISLAMIC JIHAD ORGANIZATION (a.k.a. PARTY OF GOD; a.k.a. HIZBALLAH; a.k.a. ISLAMIC JIHAD; a.k.a. REVOLUTIONARY JUSTICE ORGANIZATION; a.k.a. ORGANIZATION OF THE OPPRESSED ON EARTH; a.k.a. ISLAMIC JIHAD FOR THE LIBERATION OF PALESTINE; a.k.a. ORGANIZATION OF RIGHT AGAINST WRONG; a.k.a. ANSAR

ALLAH; a.k.a. FOLLOWERS OF THE PROPHET MUHAMMAD) [SDT] [FTO]

ISLAMIC RESISTANCE MOVEMENT (a.k.a. HAMAS; a.k.a. HARAKAT AL-MUQAWAMA AL-ISLAMIYA; a.k.a. STUDENTS OF AYYASH; a.k.a. STUDENTS OF THE ENGINEER; a.k.a. YAHYA AYYASH UNITS; a.k.a. IZZ AL-DIN AL-QASSIM BRIGADES; a.k.a. IZZ AL-DIN AL-QASSIM FORCES; a.k.a. IZZ AL-DIN AL-QASSIM BATTALIONS; a.k.a. IZZ AL-DIN AL QASSAM BRIGADES; a.k.a. IZZ AL-DIN AL QASSAM FORCES; a.k.a. IZZ AL-DIN AL QASSAM BATTALIONS) [SDT] [FTO]

ISLAMIC SALVATION FOUNDATION (a.k.a. AL-QAIDA; a.k.a. ISLAMIC ARMY; a.k.a. THE GROUP FOR THE PRESERVATION OF THE HOLY SITES; a.k.a. THE ISLAMIC ARMY FOR THE LIBERATION OF THE HOLY PLACES; a.k.a. THE WORLD ISLAMIC FRONT FOR JIHAD AGAINST JEWS AND CRUSADERS) [SDT]

IZZ AL-DIN AL QASSAM BATTALIONS (a.k.a. ISLAMIC RESISTANCE MOVEMENT; a.k.a. HARAKAT AL-MUQAWAMA AL-ISLAMIYA; a.k.a. STUDENTS OF AYYASH; a.k.a. STUDENTS OF THE ENGINEER; a.k.a. YAHYA AYYASH UNITS; a.k.a. IZZ AL-DIN AL-QASSIM BRIGADES; a.k.a. IZZ AL-DIN AL-QASSIM FORCES; a.k.a. IZZ AL-DIN AL-QASSIM BATTALIONS; a.k.a. IZZ AL-DIN AL QASSAM BRIGADES; a.k.a. IZZ AL-DIN AL QASSAM FORCES; a.k.a. HAMAS) [SDT] [FTO]

IZZ AL-DIN AL QASSAM BRIGADES (a.k.a. ISLAMIC RESISTANCE MOVEMENT; a.k.a. HARAKAT AL-MUQAWAMA AL-ISLAMIYA; a.k.a. STUDENTS OF AYYASH; a.k.a. STUDENTS OF THE ENGINEER; a.k.a. YAHYA AYYASH UNITS; a.k.a. IZZ AL-DIN AL-QASSIM BRIGADES; a.k.a. IZZ AL-DIN AL-QASSIM FORCES; a.k.a. IZZ AL-DIN AL-QASSIM BATTALIONS; a.k.a. HAMAS; a.k.a. IZZ AL-DIN AL QASSAM FORCES; a.k.a. IZZ AL-DIN AL QASSAM BATTALIONS) [SDT] [FTO]

IZZ AL-DIN AL QASSAM FORCES (a.k.a. ISLAMIC RESISTANCE MOVEMENT; a.k.a. HARAKAT AL-MUQAWAMA AL-ISLAMIYA; a.k.a. STUDENTS OF AYYASH; a.k.a. STUDENTS OF THE ENGINEER; a.k.a. YAHYA AYYASH UNITS; a.k.a. IZZ AL-DIN AL-QASSIM BRIGADES; a.k.a. IZZ AL-DIN AL-QASSIM FORCES; a.k.a. IZZ AL-DIN AL-QASSIM BATTALIONS; a.k.a. IZZ AL-DIN AL QASSAM BRIGADES; a.k.a. HAMAS; a.k.a. IZZ AL-DIN AL QASSAM BATTALIONS) [SDT] [FTO]

IZZ AL-DIN AL-QASSIM BATTALIONS (a.k.a. ISLAMIC RESISTANCE MOVEMENT; a.k.a. HARAKAT AL-MUQAWAMA AL-ISLAMIYA; a.k.a. STUDENTS OF AYYASH; a.k.a. STUDENTS OF THE ENGINEER; a.k.a. YAHYA AYYASH UNITS; a.k.a. IZZ AL-DIN AL-QASSIM BRIGADES; a.k.a. IZZ AL-DIN AL-QASSIM FORCES; a.k.a. HAMAS; a.k.a. IZZ AL-DIN AL QASSAM BRIGADES; a.k.a. IZZ AL-DIN AL QASSAM FORCES; a.k.a. IZZ AL-DIN AL QASSAM BATTALIONS) [SDT] [FTO]

IZZ AL-DIN AL-QASSIM BRIGADES (a.k.a. ISLAMIC RESISTANCE MOVEMENT; a.k.a. HARAKAT AL-MUQAWAMA AL-ISLAMIYA; a.k.a. STUDENTS OF AYYASH; a.k.a. STUDENTS OF THE ENGINEER; a.k.a. YAHYA AYYASH UNITS; a.k.a. HAMAS; a.k.a. IZZ AL-DIN AL-QASSIM FORCES; a.k.a. IZZ AL-DIN AL-QASSIM BATTALIONS; a.k.a. IZZ AL-DIN AL QASSAM BRIGADES; a.k.a. IZZ AL-DIN AL QASSAM FORCES; a.k.a. IZZ AL-DIN AL QASSAM BATTALIONS) [SDT] [FTO]

IZZ AL-DIN AL-QASSIM FORCES (a.k.a. ISLAMIC RESISTANCE MOVEMENT; a.k.a. HARAKAT AL-MUQAWAMA AL-ISLAMIYA; a.k.a. STUDENTS OF AYYASH; a.k.a. STUDENTS OF THE ENGINEER; a.k.a. YAHYA AYYASH UNITS; a.k.a. IZZ AL-DIN AL-QASSIM BRIGADES; a.k.a. HAMAS; a.k.a. IZZ AL-DIN AL-QASSIM BATTALIONS; a.k.a. IZZ AL-DIN AL QASSAM BRIGADES; a.k.a. IZZ AL-DIN AL QASSAM FORCES; a.k.a. IZZ AL-DIN AL QASSAM BATTALIONS) [SDT] [FTO]

JAPANESE RED ARMY (a.k.a. NIPPON SEKIGUN; a.k.a. NIHON SEKIGUN; a.k.a. ANTI-IMPERIALIST INTERNATIONAL BRIGADE; a.k.a. HOLY WAR BRIGADE; a.k.a. ANTI-WAR DEMOCRATIC FRONT; a.k.a. JRA; a.k.a. AIIB) [FTO]

JIHAD GROUP (a.k.a. EGYPTIAN AL-JIHAD; a.k.a. VANGUARDS OF CONQUEST; a.k.a. VANGUARDS OF VICTORY; a.k.a. TALAI'I AL-FATH; a.k.a. TALA'AH AL-FATAH; a.k.a. TALA'AL AL-FATEH; a.k.a. TALA' AL-FATEH; a.k.a. TALAAH AL-FATAH; a.k.a. TALA'AL-FATEH; a.k.a. NEW JIHAD; a.k.a. EGYPTIAN ISLAMIC JIHAD; a.k.a. AL-JIHAD) [SDT] [FTO]

JRA (a.k.a. NIPPON SEKIGUN; a.k.a. NIHON SEKIGUN; a.k.a. ANTI-IMPERIALIST INTERNATIONAL BRIGADE; a.k.a. HOLY WAR BRIGADE; a.k.a. ANTI-WAR DEMOCRATIC FRONT; a.k.a. JAPANESE RED ARMY; a.k.a. AIIB) [FTO]

JUDEA POLICE (a.k.a. REPRESSION OF TRAITORS; a.k.a. KACH; a.k.a. DIKUY BOGDIM; a.k.a. COMMITTEE FOR THE SAFETY OF THE ROADS; a.k.a. DOV; a.k.a. STATE OF JUDEA; a.k.a. SWORD OF DAVID) [SDT] [FTO]

JUDEAN VOICE (a.k.a. KAHANE CHAI; a.k.a. KAHANE LIVES; a.k.a. KFAR TAPUAH FUND) [SDT] [FTO]

KACH (a.k.a. REPRESSION OF TRAITORS; a.k.a. DIKUY BOGDIM; a.k.a. DOV; a.k.a. STATE OF JUDEA; a.k.a. COMMITTEE FOR THE SAFETY OF THE ROADS; a.k.a. SWORD OF DAVID; a.k.a. JUDEA POLICE) [SDT] [FTO]

KAHANE CHAI (a.k.a. KAHANE LIVES; a.k.a. KFAR TAPUAH FUND; a.k.a. JUDEAN VOICE) [SDT] [FTO]

KAHANE LIVES (a.k.a. KAHANE CHAI; a.k.a. KFAR TAPUAH FUND; a.k.a. JUDEAN VOICE) [SDT] [FTO]

KFAR TAPUAH FUND (a.k.a. KAHANE CHAI; a.k.a. KAHANE LIVES; a.k.a. JUDEAN VOICE) [SDT] [FTO]

KHMER ROUGE (a.k.a. PARTY OF DEMOCRATIC KAMPUCHEA; a.k.a. NATIONAL ARMY OF DEMOCRATIC KAMPUCHEA) [FTO]

KURDISTAN WORKERS' PARTY (a.k.a. PKK; a.k.a. PARTIYA KARKERAN KURDISTAN) [FTO]

LIBERATION TIGERS OF TAMIL EELAM (a.k.a. LTTE; a.k.a. TAMIL TIGERS; a.k.a. ELLALAN FORCE) [FTO]

LTTE (a.k.a. LIBERATION TIGERS OF TAMIL EELAM; a.k.a. TAMIL TIGERS; a.k.a. ELLALAN FORCE) [FTO]

MANUEL RODRIGUEZ PATRIOTIC FRONT (a.k.a. FPMR/D; a.k.a. FRENTE PATRIOTICO MANUEL RODRIGUEZ - AUTONOMOS; a.k.a. FPMR/A; a.k.a. MANUEL RODRIGUEZ PATRIOTIC FRONT DISSIDENTS; a.k.a. FRENTE PATRIOTICO MANUEL RODRIGUEZ; a.k.a. FPMR) [FTO]

MANUEL RODRIGUEZ PATRIOTIC FRONT DISSIDENTS (a.k.a. FPMR/D; a.k.a. FRENTE PATRIOTICO MANUEL RODRIGUEZ - AUTONOMOS; a.k.a. FPMR/A; a.k.a. MANUEL RODRIGUEZ PATRIOTIC FRONT; a.k.a. FRENTE PATRIOTICO MANUEL RODRIGUEZ; a.k.a. FPMR) [FTO]

MEK (a.k.a. MUJAHEDIN-E KHALQ ORGANIZATION; a.k.a. MKO; a.k.a. MUJAHEDIN-E KHALQ; a.k.a. PEOPLE'S MUJAHEDIN ORGANIZATION OF IRAN; a.k.a. PMOI; a.k.a. ORGANIZATION OF THE PEOPLE'S HOLY WARRIORS OF IRAN; a.k.a. SAZEMAN-E MUJAHEDIN-E KHALQ-E IRAN) [FTO]

MKO (a.k.a. MEK; a.k.a. MUJAHEDIN-E KHALQ ORGANIZATION; a.k.a. MUJAHEDIN-E KHALQ; a.k.a. PEOPLE'S MUJAHEDIN ORGANIZATION OF IRAN; a.k.a. PMOI; a.k.a. ORGANIZATION OF THE PEOPLE'S HOLY WARRIORS OF IRAN; a.k.a. SAZEMAN-E MUJAHEDIN-E KHALQ-E IRAN) [FTO]

MOVIMIENTO REVOLUCIONARIO TUPAC AMARU (a.k.a. TUPAC AMARU REVOLUTIONARY MOVEMENT; a.k.a. MRTA) [FTO]

MRTA (a.k.a. TUPAC AMARU REVOLUTIONARY MOVEMENT; a.k.a. MOVIMIENTO REVOLUCIONARIO TUPAC AMARU) [FTO]

MUJAHEDIN-E KHALQ (a.k.a. MEK; a.k.a. MKO; a.k.a. MUJAHEDIN-E KHALQ ORGANIZATION ; a.k.a. PEOPLE'S MUJAHEDIN ORGANIZATION OF IRAN; a.k.a. PMOI; a.k.a. ORGANIZATION OF THE PEOPLE'S HOLY WARRIORS OF IRAN; a.k.a. SAZEMAN-E MUJAHEDIN-E KHALQ-E IRAN) [FTO]

MUJAHEDIN-E KHALQ ORGANIZATION (a.k.a. MEK; a.k.a. MKO; a.k.a. MUJAHEDIN-E KHALQ; a.k.a. PEOPLE'S MUJAHEDIN ORGANIZATION OF IRAN; a.k.a. PMOI; a.k.a. ORGANIZATION OF THE PEOPLE'S HOLY WARRIORS OF IRAN; a.k.a. SAZEMAN-E MUJAHEDIN-E KHALQ-E IRAN) [FTO]

NATIONAL ARMY OF DEMOCRATIC KAMPUCHEA (a.k.a. PARTY OF DEMOCRATIC KAMPUCHEA; a.k.a. KHMER ROUGE) [FTO]

NATIONAL LIBERATION ARMY (a.k.a. ELN; a.k.a. EJERCITO DE LIBERACION NACIONAL) [FTO]

NEW JIHAD (a.k.a. EGYPTIAN AL-JIHAD; a.k.a. VANGUARDS OF CONQUEST; a.k.a. VANGUARDS OF VICTORY; a.k.a. TALAI'I AL-FATH; a.k.a. TALA'AH AL-FATAH; a.k.a. TLA'AL AL-FATEH; a.k.a. TALA' AL-FATEH; a.k.a. TALAAH AL-FATAH; a.k.a. TALA'AL-FATEH; a.k.a. AL-JIHAD; a.k.a.

EGYPTIAN ISLAMIC JIHAD; a.k.a. JIHAD GROUP) [SDT] [FTO]

NIHON SEKIGUN (a.k.a. NIPPON SEKIGUN; a.k.a. JAPANESE RED ARMY; a.k.a. ANTI-IMPERIALIST INTERNATIONAL BRIGADE; a.k.a. HOLY WAR BRIGADE; a.k.a. ANTI-WAR DEMOCRATIC FRONT; a.k.a. JRA; a.k.a. AIIB) [FTO]

NIPPON SEKIGUN (a.k.a. JAPANESE RED ARMY; a.k.a. NIHON SEKIGUN; a.k.a. ANTI-IMPERIALIST INTERNATIONAL BRIGADE; a.k.a. HOLY WAR BRIGADE; a.k.a. ANTI-WAR DEMOCRATIC FRONT; a.k.a. JRA; a.k.a. AIIB) [FTO]

ORGANIZATION OF RIGHT AGAINST WRONG (a.k.a. PARTY OF GOD; a.k.a. ISLAMIC JIHAD; a.k.a. ISLAMIC JIHAD ORGANIZATION; a.k.a. ISLAMIC JIHAD FOR THE LIBERATION OF PALESTINE; a.k.a. REVOLUTIONARY JUSTICE ORGANIZATION; a.k.a. HIZBALLAH; a.k.a. ORGANIZATION OF THE OPPRESSED ON EARTH ; a.k.a. ANSAR ALLAH; a.k.a. FOLLOWERS OF THE PROPHET MUHAMMAD) [SDT] [FTO]

ORGANIZATION OF THE OPPRESSED ON EARTH (a.k.a. PARTY OF GOD; a.k.a. ISLAMIC JIHAD; a.k.a. ISLAMIC JIHAD ORGANIZATION; a.k.a. ISLAMIC JIHAD FOR THE LIBERATION OF PALESTINE; a.k.a. REVOLUTIONARY JUSTICE ORGANIZATION; a.k.a. HIZBALLAH; a.k.a. ORGANIZATION OF RIGHT AGAINST WRONG; a.k.a. ANSAR ALLAH; a.k.a. FOLLOWERS OF THE PROPHET MUHAMMAD) [SDT] [FTO]

ORGANIZATION OF THE PEOPLE'S HOLY WARRIORS OF IRAN (a.k.a. MEK; a.k.a. MKO; a.k.a. MUJAHEDIN-E KHALQ; a.k.a. PEOPLE'S MUJAHEDIN ORGANIZATION OF IRAN; a.k.a. PMOI; a.k.a. MUJAHEDIN-E KHALQ ORGANIZATION; a.k.a. SAZEMAN-E MUJAHEDIN-E KHALQ-E IRAN) [FTO]

PALESTINE ISLAMIC JIHAD - SHAQAQI FACTION (a.k.a. PIJ-SHAQAQI FACTION; a.k.a. PIJ; a.k.a. ISLAMIC JIHAD IN PALESTINE; a.k.a. ISLAMIC JIHAD OF PALESTINE; a.k.a. ABU GHUNAYM SQUAD OF THE HIZBALLAH BAYT AL-MAQDIS) [SDT] [FTO]

PALESTINE LIBERATION FRONT (a.k.a. PALESTINE LIBERATION FRONT - ABU ABBAS FACTION; a.k.a. PLF; a.k.a. PLF-ABU ABBAS) [SDT] [FTO]

PALESTINE LIBERATION FRONT - ABU ABBAS FACTION (a.k.a. PALESTINE LIBERATION FRONT; a.k.a. PLF; a.k.a. PLF-ABU ABBAS) [SDT] [FTO]

PARTIDO COMUNISTA DEL PERU (COMMUNIST PARTY OF PERU) (a.k.a. SENDERO LUMINOSO; a.k.a. SL; a.k.a. PARTIDO COMUNISTA DEL PERU EN EL SENDERO LUMINOSO DE JOSE CARLOS MARIATEGUI (COMMUNIST PARTY OF PERU ON THE SHINING PATH OF JOSE CARLOS MARIATEGUI); a.k.a. SHINING PATH; a.k.a. PCP; a.k.a. SOCORRO POPULAR DEL PERU (PEOPLE'S AID OF PERU); a.k.a. SPP; a.k.a EJERCITO GUERRILLERO POPULAR (PEOPLE'S GUERRILLA ARMY); a.k.a. EGP; a.k.a. EJERCITO POPULAR DE LIBERACION (PEOPLE'S LIBERATION ARMY); a.k.a. EPL) [FTO]

PARTIDO COMUNISTA DEL PERU EN EL SENDERO LUMINOSO DE JOSE CARLOS MARIATEGUI (COMMUNIST PARTY OF PERU ON THE SHINING PATH OF JOSE CARLOS MARIATEGUI) (a.k.a. SENDERO LUMINOSO; a.k.a. SL; a.k.a. SHINING PATH; a.k.a. PARTIDO COMUNISTA DEL PERU (COMMUNIST PARTY OF PERU); a.k.a. PCP; a.k.a. SOCORRO POPULAR DEL PERU (PEOPLE'S AID OF PERU); a.k.a. SPP; a.k.a EJERCITO GUERRILLERO POPULAR (PEOPLE'S GUERRILLA ARMY); a.k.a. EGP; a.k.a. EJERCITO POPULAR DE LIBERACION (PEOPLE'S LIBERATION ARMY); a.k.a. EPL) [FTO]

PARTIYA KARKERAN KURDISTAN (a.k.a. KURDISTAN WORKERS' PARTY; a.k.a. PKK) [FTO]

PARTY OF DEMOCRATIC KAMPUCHEA (a.k.a. KHMER ROUGE; a.k.a. NATIONAL ARMY OF DEMOCRATIC KAMPUCHEA) [FTO]

PARTY OF GOD (a.k.a. HIZBALLAH; a.k.a. ISLAMIC JIHAD; a.k.a. ISLAMIC JIHAD ORGANIZATION; a.k.a. REVOLUTIONARY JUSTICE ORGANIZATION; a.k.a. ORGANIZATION OF THE OPPRESSED ON EARTH; a.k.a. ISLAMIC JIHAD FOR THE LIBERATION OF PALESTINE; a.k.a. ORGANIZATION OF RIGHT AGAINST WRONG; a.k.a. ANSAR ALLAH; a.k.a. FOLLOWERS OF THE PROPHET MUHAMMAD) [SDT] [FTO]

PCP (a.k.a. SENDERO LUMINOSO; a.k.a. SL; a.k.a. PARTIDO COMUNISTA DEL PERU EN EL SENDERO LUMINOSO DE JOSE CARLOS MARIATEGUI (COMMUNIST PARTY OF PERU ON THE SHINING PATH OF JOSE CARLOS MARIATEGUI); a.k.a. PARTIDO COMUNISTA DEL PERU (COMMUNIST PARTY OF PERU); a.k.a. SHINING PATH; a.k.a. SOCORRO POPULAR DEL PERU (PEOPLE'S AID OF PERU); a.k.a. SPP; a.k.a EJERCITO GUERRILLERO POPULAR (PEOPLE'S GUERRILLA ARMY); a.k.a. EGP; a.k.a. EJERCITO POPULAR DE LIBERACION (PEOPLE'S LIBERATION ARMY); a.k.a. EPL) [FTO]

PEOPLE'S MUJAHEDIN ORGANIZATION OF IRAN (a.k.a. MEK; a.k.a. MKO; a.k.a. MUJAHEDIN-E KHALQ; a.k.a. MUJAHEDIN-E KHALQ ORGANIZATION; a.k.a. PMOI; a.k.a. ORGANIZATION OF THE PEOPLE'S HOLY WARRIORS OF IRAN; a.ka. SAZEMAN-E MUJAHEDIN-E KHALQ-E IRAN) [FTO]

PFLP (a.k.a. POPULAR FRONT FOR THE LIBERATION OF PALESTINE; a.k.a. RED EAGLES; a.k.a. RED EAGLE GROUP; a.k.a. RED EAGLE GANG; a.k.a. HALHUL GANG; a.k.a. HALHUL SQUAD) [SDT] [FTO]

PFLP-GC (a.k.a. POPULAR FRONT FOR THE LIBERATION OF PALESTINE - GENERAL COMMAND) [SDT] [FTO]

PIJ (a.k.a. PIJ-SHAQAQI FACTION; a.k.a. PALESTINE ISLAMIC JIHAD - SHAQAQI FACTION; a.k.a. ISLAMIC JIHAD IN PALESTINE; a.k.a. ISLAMIC JIHAD OF PALESTINE; a.k.a. ABU GHUNAYM SQUAD OF THE HIZBALLAH BAYT AL-MAQDIS) [SDT] [FTO]

PIJ-SHAQAQI FACTION (a.k.a. PALESTINE ISLAMIC JIHAD - SHAQAQI FACTION; a.k.a. PIJ; a.k.a. ISLAMIC JIHAD IN PALESTINE; a.k.a. ISLAMIC JIHAD OF PALESTINE; a.k.a. ABU GHUNAYM SQUAD OF THE HIZBALLAH BAYT AL-MAQDIS) [SDT] [FTO]

PKK (a.k.a. KURDISTAN WORKERS' PARTY; a.k.a. PARTIYA KARKERAN KURDISTAN) [FTO]

PLF (a.k.a. PALESTINE LIBERATION FRONT - ABU ABBAS FACTION; a.k.a. PALESTINE LIBERATION FRONT; a.k.a. PLF-ABU ABBAS) [SDT] [FTO]

PLF-ABU ABBAS (a.k.a. PALESTINE LIBERATION FRONT - ABU ABBAS FACTION; a.k.a. PALESTINE LIBERATION FRONT; a.k.a. PLF) [SDT] [FTO]

PMOI (a.k.a. MEK; a.k.a. MKO; a.k.a. MUJAHEDIN-E KHALQ; a.k.a. PEOPLE'S MUJAHEDIN ORGANIZATION OF IRAN; a.k.a. MUJAHEDIN-E KHALQ ORGANIZATION; a.k.a. ORGANIZATION OF THE PEOPLE'S HOLY WARRIORS OF IRAN; a.k.a. SAZEMAN-E MUJAHEDIN-E KHALQ-E IRAN) [FTO]

POPULAR FRONT FOR THE LIBERATION OF PALESTINE (a.k.a. PFLP; a.k.a. RED EAGLES; a.k.a. RED EAGLE GROUP; a.k.a. RED EAGLE GANG; a.k.a. HALHUL GANG; a.k.a. HALHUL SQUAD) [SDT] [FTO]

POPULAR FRONT FOR THE LIBERATION OF PALESTINE - GENERAL COMMAND (a.k.a. PFLP-GC) [SDT] [FTO]

POPULAR REVOLUTIONARY STRUGGLE (a.k.a. EPANASTATIKOS LAIKOS AGONAS; a.k.a. ELA; a.k.a. REVOLUTIONARY POPULAR STRUGGLE; a.k.a. REVOLUTIONARY PEOPLE'S STRUGGLE) [FTO]

RED EAGLE GANG (a.k.a. PFLP; a.k.a. RED EAGLES; a.k.a. RED EAGLE GROUP; a.k.a. POPULAR FRONT FOR THE LIBERATION OF PALESTINE; a.k.a. HALHUL GANG; a.k.a. HALHUL SQUAD) [SDT] [FTO]

RED EAGLE GROUP (a.k.a. PFLP; a.k.a. RED EAGLES; a.k.a. POPULAR FRONT FOR THE LIBERATION OF PALESTINE; a.k.a. RED EAGLE GANG; a.k.a. HALHUL GANG; a.k.a. HALHUL SQUAD) [SDT] [FTO]

RED EAGLES (a.k.a. PFLP; a.k.a. POPULAR FRONT FOR THE LIBERATION OF PALESTINE; a.k.a. RED EAGLE GROUP; a.k.a. RED EAGLE GANG; a.k.a. HALHUL GANG; a.k.a. HALHUL SQUAD) [SDT] [FTO]

RED STAR BATTALIONS (a.k.a. DEMOCRATIC FRONT FOR THE LIBERATION OF PALESTINE; a.k.a. DFLP; a.k.a. RED STAR FORCES; a.k.a. DEMOCRATIC FRONT FOR THE LIBERATION OF PALESTINE - HAWATMEH FACTION) [SDT] [FTO]

RED STAR FORCES (a.k.a. DEMOCRATIC FRONT FOR THE LIBERATION OF PALESTINE; a.k.a. DFLP; a.k.a. DEMOCRATIC FRONT FOR THE LIBERATION OF PALESTINE - HAWATMEH FACTION; a.k.a. RED STAR BATTALIONS) [SDT] [FTO]

REPRESSION OF TRAITORS (a.k.a. KACH; a.k.a. DIKUY BOGDIM; a.k.a. DOV; a.k.a. STATE OF JUDEA; a.k.a. COM-

MITTEE FOR THE SAFETY OF THE ROADS; a.k.a. SWORD OF DAVID; a.k.a. JUDEA POLICE) [SDT] [FTO]

REVOLUTIONARY ARMED FORCES OF COLOMBIA (a.k.a. FARC; a.k.a. FUERZAS ARMADAS REVOLUCIONARIAS DE COLOMBIA) [FTO]

REVOLUTIONARY JUSTICE ORGANIZATION (a.k.a. PARTY OF GOD; a.k.a. ISLAMIC JIHAD; a.k.a. ISLAMIC JIHAD ORGANIZATION; a.k.a. ISLAMIC JIHAD FOR THE LIBERATION OF PALESTINE; a.k.a. ORGANIZATION OF THE OPPRESSED ON EARTH; a.k.a. HIZBALLAH; a.k.a. ORGANIZATION OF RIGHT AGAINST WRONG; a.k.a. ANSAR ALLAH; a.k.a. FOLLOWERS OF THE PROPHET MUHAMMAD) [SDT] [FTO]

REVOLUTIONARY LEFT (a.k.a. DEVRIMCI HALK KURTULUS PARTISI-CEPHESI; a.k.a. DHKP/C; a.k.a. DEVRIMCI SOL; a.k.a. REVOLUTIONARY PEOPLE'S LIBERATION PARTY/FRONT; a.k.a. DEV SOL; a.k.a. DEV SOL SILAHLI DEVRIMCI BIRLIKLERI; a.k.a. DEV SOL SDB; a.k.a. DEV SOL ARMED REVOLUTIONARY UNITS) [FTO]

REVOLUTIONARY ORGANIZATION OF SOCIALIST MUSLIMS (a.k.a. ANO; a.k.a. BLACK SEPTEMBER; a.k.a. FATAH REVOLUTIONARY COUNCIL; a.k.a. ARAB REVOLUTIONARY COUNCIL; a.k.a. ABU NIDAL ORGANIZATION; a.k.a. ARAB REVOLUTIONARY BRIGADES) [SDT] [FTO]

REVOLUTIONARY ORGANIZATION 17 NOVEMBER (a.k.a. 17 NOVEMBER; a.k.a. EPANASTATIKI ORGANOSI 17 NOEMVRI) [FTO]

REVOLUTIONARY PEOPLE'S LIBERATION PARTY/FRONT (a.k.a. DEVRIMCI HALK KURTULUS PARTISI-CEPHESI; a.k.a. DHKP/C; a.k.a. DEVRIMCI SOL; a.k.a. REVOLUTIONARY LEFT; a.k.a. DEV SOL; a.k.a. DEV SOL SILAHLI DEVRIMCI BIRLIKLERI; a.k.a. DEV SOL SDB; a.k.a. DEV SOL ARMED REVOLUIONARY UNITS) [FTO]

REVOLUTIONARY PEOPLE'S STRUGGLE (a.k.a. EPANASTATIKOS LAIKOS AGONAS; a.k.a. ELA; a.k.a. REVOLUTIONARY POPULAR STRUGGLE; a.k.a. POPULAR REVOLUTIONARY STRUGGLE) [FTO]

REVOLUTIONARY POPULAR STRUGGLE (a.k.a. EPANASTATIKOS LAIKOS AGONAS; a.k.a. ELA; a.k.a. REVOLUTIONARY PEOPLE'S STRUGGLE; a.k.a. POPULAR REVOLUTIONARY STRUGGLE) [FTO]

SAZEMAN-E MUJAHEDIN-E KHALQ-E IRAN (a.k.a. MEK; a.k.a. MKO; a.k.a. MUJAHEDIN-E KHALQ; a.k.a. PEOPLE'S MUJAHEDIN ORGANIZATION OF IRAN; a.k.a. PMOI; a.k.a. ORGANIZATION OF THE PEOPLE'S HOLY WARRIORS OF IRAN; a.k.a. MUJAHEDIN-E KHALQ ORGANIZATION) [FTO]

SENDERO LUMINOSO (a.k.a. SHINING PATH; a.k.a. SL; a.k.a. PARTIDO COMUNISTA DEL PERU EN EL SENDERO LUMINOSO DE JOSE CARLOS MARIATEGUI (COMMUNIST PARTY OF PERU ON THE SHINING PATH OF JOSE CARLOS MARIATEGUI); a.k.a. PARTIDO COMUNISTA DEL PERU (COMMUNIST PARTY OF PERU); a.k.a. PCP; a.k.a. SOCORRO POPULAR DEL PERU (PEO-

PLE'S AID OF PERU); a.k.a. SPP; a.k.a EJERCITO GUERRILLERO POPULAR (PEOPLE'S GUERRILLA ARMY); a.k.a. EGP; a.k.a. EJERCITO POPULAR DE LIBERACION (PEOPLE'S LIBERATION ARMY); a.k.a. EPL) [FTO]

SHINING PATH (a.k.a. SENDERO LUMINOSO; a.k.a. SL; a.k.a. PARTIDO COMUNISTA DEL PERU EN EL SENDERO LUMINOSO DE JOSE CARLOS MARIATEGUI (COMMUNIST PARTY OF PERU ON THE SHINING PATH OF JOSE CARLOS MARIATEGUI); a.k.a. PARTIDO COMUNISTA DEL PERU (COMMUNIST PARTY OF PERU); a.k.a. PCP; a.k.a. SOCORRO POPULAR DEL PERU (PEOPLE'S AID OF PERU); a.k.a. SPP; a.k.a EJERCITO GUERRILLERO POPULAR (PEOPLE'S GUERRILLA ARMY); a.k.a. EGP; a.k.a. EJERCITO POPULAR DE LIBERACION (PEOPLE'S LIBERATION ARMY); a.k.a. EPL) [FTO]

SL (a.k.a. SENDERO LUMINOSO; a.k.a. SHINING PATH; a.k.a. PARTIDO COMUNISTA DEL PERU EN EL SENDERO LUMINOSO DE JOSE CARLOS MARIATEGUI (COMMUNIST PARTY OF PERU ON THE SHINING PATH OF JOSE CARLOS MARIATEGUI); a.k.a. PARTIDO COMUNISTA DEL PERU (COMMUNIST PARTY OF PERU); a.k.a. PCP; a.k.a. SOCORRO POPULAR DEL PERU (PEOPLE'S AID OF PERU); a.k.a. SPP; a.k.a EJERCITO GUERRILLERO POPULAR (PEOPLE'S GUERRILLA ARMY); a.k.a. EGP; a.k.a. EJERCITO POPULAR DE LIBERACION (PEOPLE'S LIBERATION ARMY); a.k.a. EPL) [FTO]

SOCORRO POPULAR DEL PERU (PEOPLE'S AID OF PERU) (a.k.a. SENDERO LUMINOSO; a.k.a. SL; a.k.a. PARTIDO COMUNISTA DEL PERU EN EL SENDERO LUMINOSO DE JOSE CARLOS MARIATEGUI (COMMUNIST PARTY OF PERU ON THE SHINING PATH OF JOSE CARLOS MARIATEGUI); a.k.a. PARTIDO COMUNISTA DEL PERU (COMMUNIST PARTY OF PERU); a.k.a. PCP; a.k.a. SHINING PATH; a.k.a. SPP; a.k.a EJERCITO GUERRILLERO POPULAR (PEOPLE'S GUERRILLA ARMY); a.k.a. EGP; a.k.a. EJERCITO POPULAR DE LIBERACION (PEOPLE'S LIBERATION ARMY); a.k.a. EPL) [FTO]

SPP (a.k.a. SENDERO LUMINOSO; a.k.a. SL; a.k.a. PARTIDO COMUNISTA DEL PERU EN EL SENDERO LUMINOSO DE JOSE CARLOS MARIATEGUI (COMMUNIST PARTY OF PERU ON THE SHINING PATH OF JOSE CARLOS MARIATEGUI); a.k.a. PARTIDO COMUNISTA DEL PERU (COMMUNIST PARTY OF PERU); a.k.a. PCP; a.k.a. SOCORRO POPULAR DEL PERU (PEOPLE'S AID OF PERU); a.k.a. SHINING PATH; a.k.a EJERCITO GUERRILLERO POPULAR (PEOPLE'S GUERRILLA ARMY); a.k.a. EGP; a.k.a. EJERCITO POPULAR DE LIBERACION (PEOPLE'S LIBERATION ARMY); a.k.a. EPL) [FTO]

STATE OF JUDEA (a.k.a. REPRESSION OF TRAITORS; a.k.a. KACH; a.k.a. DIKUY BOGDIM; a.k.a. COMMITTEE FOR THE SAFETY OF THE ROADS; a.k.a. DOV; a.k.a. SWORD OF DAVID; a.k.a. JUDEA POLICE) [SDT] [FTO]

STUDENTS OF AYYASH (a.k.a. ISLAMIC RESISTANCE MOVEMENT; a.k.a. HARAKAT AL-MUQAWAMA AL-ISLAMIYA;

a.k.a. HAMAS; a.k.a. STUDENTS OF THE ENGINEER; a.k.a. YAHYA AYYASH UNITS; a.k.a. IZZ AL-DIN AL-QASSIM BRIGADES; a.k.a. IZZ AL-DIN AL-QASSIM FORCES; a.k.a. IZZ AL-DIN AL-QASSIM BATTALIONS; a.k.a. IZZ AL-DIN AL QASSAM BRIGADES; a.k.a. IZZ AL-DIN AL QASSAM FORCES; a.k.a. IZZ AL-DIN AL QASSAM BATTALIONS) [SDT] [FTO]

STUDENTS OF THE ENGINEER (a.k.a. ISLAMIC RESISTANCE MOVEMENT; a.k.a. HARAKAT AL-MUQAWAMA AL-ISLAMIYA; a.k.a. STUDENTS OF AYYASH; a.k.a. HAMAS; a.k.a. YAHYA AYYASH UNITS; a.k.a. IZZ AL-DIN AL-QASSIM BRIGADES; a.k.a. IZZ AL-DIN AL-QASSIM FORCES; a.k.a. IZZ AL-DIN AL-QASSIM BATTALIONS; a.k.a. IZZ AL-DIN AL QASSAM BRIGADES; a.k.a. IZZ AL-DIN AL QASSAM FORCES; a.k.a. IZZ AL-DIN AL QASSAM BATTALIONS) [SDT] [FTO]

SWORD OF DAVID (a.k.a. REPRESSION OF TRAITORS; a.k.a. KACH; a.k.a. DIKUY BOGDIM; a.k.a. COMMITTEE FOR THE SAFETYOF THE ROADS; a.k.a. DOV; a.k.a. STATE OF JUDEA; a.k.a. JUDEA POLICE) [SDT] [FTO]

TALA' AL-FATEH (a.k.a. EGYPTIAN AL-JIHAD; a.k.a. VANGUARDS OF CONQUEST; a.k.a. VANGUARDS OF VICTORY; a.k.a. TALAI'I AL-FATH; a.k.a. TALA'AH AL-FATAH; a.k.a. TALA'AL AL-FATEH; a.k.a. AL-JIHAD; a.k.a. TALAAH AL-FATAH; a.k.a. TALA'AL-FATEH; a.k.a. NEW JIHAD; a.k.a. EGYPTIAN ISLAMIC JIHAD; a.k.a. JIHAD GROUP) [SDT] [FTO]

TALA'AH AL-FATAH (a.k.a. EGYPTIAN AL-JIHAD; a.k.a. VANGUARDS OF CONQUEST; a.k.a. VANGUARDS OF VICTORY; a.k.a. TALAI'I AL-FATH; a.k.a. AL-JIHAD ; a.k.a. TALA'AL AL-FATEH; a.k.a. TALA' AL-FATEH; a.k.a. TALAAH AL-FATAH; a.k.a. TALA'AL-FATEH; a.k.a. NEW JIHAD; a.k.a. EGYPTIAN ISLAMIC JIHAD; a.k.a. JIHAD GROUP) [SDT] [FTO]

TALAAH AL-FATAH (a.k.a. EGYPTIAN AL-JIHAD; a.k.a. VANGUARDS OF CONQUEST; a.k.a. VANGUARDS OF VICTORY; a.k.a. TALAI'I AL-FATH; a.k.a. TALA'AH AL-FATAH; a.k.a. TALA'AL AL-FATEH; a.k.a. TALA' AL-FATEH; a.k.a. AL-JIHAD; a.k.a. TALA'AL-FATEH; a.k.a. NEW JIHAD; a.k.a. EGYPTIAN ISLAMIC JIHAD; a.k.a. JIHAD GROUP) [SDT] [FTO]

TALA'AL AL-FATEH (a.k.a. EGYPTIAN AL-JIHAD; a.k.a. VANGUARDS OF CONQUEST; a.k.a. VANGUARDS OF VICTORY; a.k.a. TALAI'I AL-FATH; a.k.a. TALA'AH AL-FATAH; a.k.a. AL-JIHAD; a.k.a. TALA' AL-FATEH; a.k.a. TALAAH AL-FATAH; a.k.a. TALA'AL-FATEH; a.k.a. NEW JIHAD; a.k.a. EGYPTIAN ISLAMIC JIHAD; a.k.a. JIHAD GROUP) [SDT] [FTO]

TALA'AL-FATEH (a.k.a. EGYPTIAN AL-JIHAD; a.k.a. VANGUARDS OF CONQUEST; a.k.a. VANGUARDS OF VICTORY; a.k.a. TALAI'I AL-FATH; a.k.a. TALA'AH AL-FATAH; a.k.a. TALA'AL AL-FATEH; a.k.a. TALA' AL-FATEH; a.k.a. TALAAH AL-FATAH; a.k.a. AL-JIHAD; a.k.a. NEW JIHAD;

a.k.a. EGYPTIAN ISLAMIC JIHAD; a.k.a. JIHAD GROUP) [SDT] [FTO]

TALAI'I AL-FATH (a.k.a. EGYPTIAN AL-JIHAD; a.k.a. VANGUARDS OF CONQUEST; a.k.a. VANGUARDS OF VICTORY; a.k.a. AL-JIHAD; a.k.a. TALA'AH AL-FATAH; a.k.a. TALA'AL AL-FATEH; a.k.a. TALA' AL-FATEH; a.k.a. TALAAH AL-FATAH; a.k.a. TALA'AL-FATEH; a.k.a. NEW JIHAD; a.k.a. EGYPTIAN ISLAMIC JIHAD; a.k.a. JIHAD GROUP) [SDT] [FTO]

TAMIL TIGERS (a.k.a. LIBERATION TIGERS OF TAMIL EELAM; a.k.a. LTTE; a.k.a. ELLALAN FORCE) [FTO]

TUPAC AMARU REVOLUTIONARY MOVEMENT (a.k.a. MOVIMIENTO REVOLUCIONARIO TUPAC AMARU; a.k.a. MRTA) [FTO]

VANGUARDS OF CONQUEST (a.k.a. EGYPTIAN AL-JIHAD; a.k.a. AL-JIHAD; a.k.a. VANGUARDS OF VICTORY; a.k.a. TALAI'I AL-FATH; a.k.a. TALA'AH AL-FATAH; a.k.a. TALA'AL AL-FATEH; a.k.a. TALA' AL-FATEH; a.k.a. TALAAH AL-FATAH; a.k.a. TALA'AL-FATEH; a.k.a. NEW JIHAD; a.k.a. EGYPTIAN ISLAMIC JIHAD; a.k.a. JIHAD GROUP) [SDT] [FTO]

VANGUARDS OF VICTORY (a.k.a. EGYPTIAN AL-JIHAD; a.k.a. VANGUARDS OF CONQUEST; a.k.a. AL-JIHAD; a.k.a. TALAI'I AL-FATH; a.k.a. TALA'AH AL-FATAH; a.k.a. TALA'AL AL-FATEH; a.k.a. TALA' AL-FATEH; a.k.a. TALAAH AL-FATAH; a.k.a. TALA'AL-FATEH; a.k.a. NEW JIHAD; a.k.a. EGYPTIAN ISLAMIC JIHAD; a.k.a. JIHAD GROUP) [SDT] [FTO]

WORLD ISLAMIC FRONT FOR JIHAD AGAINST JEWS AND CRUSADERS, THE (a.k.a. AL-QAIDA; a.k.a. ISLAMIC ARMY; a.k.a. ISLAMIC SALVATION FOUNDATION; a.k.a. THE GROUP FOR THE PRESERVATION OF THE HOLY SITES; a.k.a. THE ISLAMIC ARMY FOR THE LIBERATION OF THE HOLY PLACES) [SDT]

YAHYA AYYASH UNITS (a.k.a. ISLAMIC RESISTANCE MOVEMENT; a.k.a. HARAKAT AL-MUQAWAMA AL-ISLAMIYA; a.k.a. STUDENTS OF AYYASH; a.k.a. STUDENTS OF THE ENGINEER; a.k.a. HAMAS; a.k.a. IZZ AL-DIN AL-QASSIM BRIGADES; a.k.a. IZZ AL-DIN AL-QASSIM FORCES; a.k.a. IZZ AL-DIN AL-QASSIM BATTALIONS; a.k.a. IZZ AL-DIN AL QASSAM BRIGADES; a.k.a. IZZ AL-DIN AL QASSAM FORCES; a.k.a. IZZ AL-DIN AL QASSAM BATTALIONS) [SDT] [FTO]

NAMED INDIVIDUALS

ABBAS, Abu (a.k.a. ZAYDAN, Muhammad); Director of PALESTINE LIBERATION FRONT - ABU ABBAS FACTION; DOB 10 Dec 1948 (individual) [SDT]

'ABD-AL-'IZ (a.k.a. ABD-AL-WAHAB, Abd-al-Hai Ahmad; a.k.a. ABU YASIR; a.k.a. 'ABD ALLAH, 'Issam 'Ali Muhammad; a.k.a. AL-KAMEL, Salah 'Ali; a.k.a. MUSA, Rifa'i Ahmad Taha; a.k.a. TAHA, Rifa'i Ahmad; TAHA MUSA, Rifa'i Ahmad; a.k.a. THABIT 'IZ); DOB 24 Jun 1954; POB Egypt; Passport

No. 83860 (Sudan), 30455 (Egypt), 1046403 (Egypt) (individual) [SDT]

'ABD ALLAH, 'Issam 'Ali Muhammad (a.k.a. 'ABD-AL-'IZ; a.k.a. ABD- AL-WAHAB, Abd-al-Hai Ahmad; a.k.a. ABU YASIR; a.k.a. AL-KAMEL, Salah 'Ali; a.k.a. MUSA, Rifa'i Ahmad Taha; a.k.a. TAHA, Rifa'i Ahmad; TAHA MUSA, Rifa'i Ahmad; a.k.a. THABIT 'IZ); DOB 24 Jun 1954; POB Egypt; Passport No. 83860 (Sudan), 30455 (Egypt), 1046403 (Egypt) (individual) [SDT]

ABDALLAH, Ramadan (a.k.a. ABDULLAH, Dr. Ramadan; a.k.a. SHALLAH, Dr. Ramadan Abdullah; a.k.a. SHALLAH, Ramadan Abdalla Mohamed), Damascus, Syria; Secretary General of the PALESTINIAN ISLAMIC JIHAD; DOB 01 Jan 1958; POB Gaza City, Gaza Strip; SSN 589–17–6824 (U.S.A.); Passport No. 265 216 (Egypt) (individual) [SDT]

ABD-AL-WAHAB, Abd-al-Hai Ahmad (a.k.a. 'ABD-AL-'IZ; a.k.a. ABU YASIR; a.k.a. 'ABD ALLAH, 'Issam 'Ali Muhammad; a.k.a. AL-KAMEL, Salah 'Ali; a.k.a. MUSA, Rifa'i Ahmad Taha; a.k.a. TAHA, Rifa'i Ahmad; TAHA MUSA, Rifa'i Ahmad; a.k.a. THABIT 'IZ); DOB 24 Jun 1954; POB Egypt; Passport No. 83860 (Sudan), 30455 (Egypt), 1046403 (Egypt) (individual) [SDT]

ABDULLAH, Dr. Ramadan (a.k.a. ABDALLAH, Ramadan; a.k.a. SHALLAH, Dr. Ramadan Abdullah; a.k.a. SHALLAH, Ramadan Abdalla Mohamed), Damascus, Syria; Secretary General of the PALESTINIAN ISLAMIC JIHAD; DOB 01 Jan 1958; POB Gaza City, Gaza Strip; SSN 589–17–6824 (U.S.A.); Passport No. 265 216 (Egypt) (individual) [SDT]

ABDULLAH, Sheikh Taysir (a.k.a. ABU HAFS; a.k.a. AL-MASRI, Abu Hafs ; a.k.a. ATEF, Muhammad; a.k.a. EL KHABIR, Abu Hafs el Masry; a.k.a. TAYSIR), DOB 1956; POB Egypt (individual) [SDT]

ABU HAFS (a.k.a. ABDULLAH, Sheikh Taysir; a.k.a. AL-MASRI, Abu Hafs; a.k.a. ATEF, Muhammad; a.k.a. EL KHABIR, Abu Hafs el Masry; a.k.a. TAYSIR), DOB 1956; POB Egypt (individual) [SDT]

ABU MARZOOK, Mousa Mohammed (a.k.a. ABU-MARZUQ, Dr. Musa; a.k.a. ABU-MARZUQ, Sa'id; a.k.a. ABU-'UMAR; a.k.a. MARZOOK, Mousa Mohamed Abou; a.k.a. MARZUK, Musa Abu), Political Leader in Amman, Jordan and Damascus, Syria for HAMAS; DOB 09 Feb 1951; POB Gaza, Egypt; SSN 523–33–8386 (U.S.A.); Passport No. 92/664 (Egypt) (individual) [SDT]

ABU-MARZUQ, Dr. Musa (a.k.a. ABU MARZOOK, Mousa Mohammed; a.k.a. ABU-MARZUQ, Sa'id; a.k.a. ABU-'UMAR; a.k.a. MARZOOK, Mousa Mohamed Abou; a.k.a. MARZUK, Musa Abu), Political Leader in Amman, Jordan and Damascus, Syria for HAMAS; DOB 09 Feb 1951; POB Gaza, Egypt; SSN 523–33–8386 (U.S.A.); Passport No. 92/664 (Egypt) (individual) [SDT]

ABU-MARZUQ, Sa'id (a.k.a. ABU MARZOOK, Mousa Mohammed; a.k.a. ABU-MARZUQ, Dr. Musa; a.k.a. ABU-'UMAR; a.k.a. MARZOOK, Mousa Mohamed Abou; a.k.a. MARZUK, Musa Abu), Political Leader in Amman, Jordan and Damascus, Syria

for HAMAS; DOB 09 Feb 1951; POB Gaza, Egypt; SSN 523–33–8386 (U.S.A.); Passport No. 92/664 (Egypt) (individual) [SDT]

ABU-'UMAR (a.k.a. ABU MARZOOK, Mousa Mohammed; a.k.a. ABU-MARZUQ, Dr. Musa; a.k.a. ABU-MARZUQ, Sa'id; a.k.a. MARZOOK, Mousa Mohamed Abou; a.k.a. MARZUK, Musa Abu), Political Leader in Amman, Jordan and Damascus, Syria for HAMAS; DOB 09 Feb 1951; POB Gaza, Egypt; SSN 523–33–8386 (U.S.A.); Passport No. 92/664 (Egypt) (individual) [SDT]

ABU YASIR (a.k.a. 'ABD-AL-'IZ; a.k.a. ABD-AL-WAHAB, Abd-al-Hai Ahmad; a.k.a. 'ABD ALLAH, 'Issam 'Ali Muhammad; a.k.a. AL-KAMEL, Salah 'Ali; a.k.a. MUSA, Rifa'i Ahmad Taha; a.k.a. TAHA, Rifa'i Ahmad; TAHA MUSA, Rifa'i Ahmad; a.k.a. THABIT 'IZ); DOB 24 Jun 1954; POB Egypt; Passport No. 83860 (Sudan), 30455 (Egypt), 1046403 (Egypt) (individual) [SDT]

AHMAD, Abu (a.k.a. AHMED, Abu; a.k.a. SALAH, Mohammad Abd El-Hamid Khalil; a.k.a. SALAH, Mohammad Abdel Hamid Halil; a.k.a. SALAH, Muhammad A.), 9229 South Thomas, Bridgeview, Illinois 60455, U.S.A.; P.O. Box 2578, Bridgeview, Illinois 60455, U.S.A.; P.O. Box 2616, Bridgeview, Illinois 60455–6616, U.S.A.; Israel; DOB 30 May 1953; SSN 342–52–7612; Passport No. 024296248 (U.S.A.) (individual) [SDT]

AHMED, Abu (a.k.a. AHMAD, Abu; a.k.a. SALAH, Mohammad Abd El-Hamid Khalil; a.k.a. SALAH, Mohammad Abdel Hamid Halil; a.k.a. SALAH, Muhammad A.), 9229 South Thomas, Bridgeview, Illinois 60455, U.S.A.; P.O. Box 2578, Bridgeview, Illinois 60455, U.S.A.; P.O. Box 2616, Bridgeview, Illinois 60455–6616, U.S.A.; Israel; DOB 30 May 1953; SSN 342–52–7612; Passport No. 024296248 (U.S.A.) (individual) [SDT]

AL BANNA, Sabri Khalil Abd Al Qadir (a.k.a. NIDAL, Abu); Founder and Secretary General of ABU NIDAL ORGANIZATION; DOB May 1937 or 1940; POB Jaffa, Israel (individual) [SDT]

AL-KAMEL, Salah 'Ali (a.k.a. 'ABD-AL-'IZ; a.k.a. ABD-AL-WAHAB, Abd- al-Hai Ahmad; a.k.a. ABU YASIR; a.k.a. 'ABD ALLAH, 'Issam 'Ali Muhammad; a.k.a. MUSA, Rifa'i Ahmad Taha; a.k.a. TAHA, Rifa'i Ahmad; TAHA MUSA, Rifa'i Ahmad; a.k.a. THABIT 'IZ); DOB 24 Jun 1954; POB Egypt; Passport No. 83860 (Sudan), 30455 (Egypt), 1046403 (Egypt) (individual) [SDT]

AL-MASRI, Abu Hafs (a.k.a. ABDULLAH, Sheikh Taysir; a.k.a. ABU HAFS; a.k.a. ATEF, Muhammad; a.k.a. EL KHABIR, Abu Hafs el Masry; a.k.a. TAYSIR), DOB 1956; POB Egypt (individual) [SDT]

AL RAHMAN, Shaykh Umar Abd; Chief Ideological Figure of ISLAMIC GAMA'AT; DOB 03 May 1938; POB Egypt (individual) [SDT]

AL ZAWAHIRI, Dr. Ayman; Operational and Military Leader of JIHAD GROUP; DOB 19 Jun 1951; POB Giza, Egypt; Passport No. 1084010 (Egypt) (individual) [SDT]

AL-ZUMAR, Abbud (a.k.a. ZUMAR, Colonel Abbud); Factional Leader of JIHAD GROUP; Egypt; POB Egypt (individual) [SDT]

ATEF, Muhammad (a.k.a. ABDULLAH, Sheikh Taysir; a.k.a. ABU HAFS; a.k.a. AL-MASRI, Abu Hafs; a.k.a. EL KHABIR, Abu Hafs el Masry; a.k.a. TAYSIR), DOB 1956; POB Egypt (individual) [SDT]

AWDA, Abd Al Aziz; Chief Ideological Figure of PALESTINIAN ISLAMIC JIHAD - SHIQAQI; DOB 1946 (individual) [SDT]

BIN LADIN, USAMA (a.k.a. BIN LADIN, USAMA BIN MUHAMMAD BIN AWAD); DOB 30 Jul 1957; POB Jeddah, Saudi Arabia (individual) [SDT]

BIN LADIN, USAMA BIN MUHAMMAD BIN AWAD (a.k.a. BIN LADIN, USAMA); DOB 30 Jul 1957; POB Jeddah, Saudi Arabia (individual) [SDT]

EL KHABIR, Abu Hafs el Masry (a.k.a. ABDULLAH, Sheikh Taysir; a.k.a. ABU HAFS; a.k.a. AL-MASRI, Abu Hafs; a.k.a. ATEF, Muhammad; a.k.a. TAYSIR), DOB 1956; POB Egypt (individual) [SDT]

FADLALLAH, Shaykh Muhammad Husayn; Leading Ideological Figure of HIZBALLAH; DOB 1938 or 1936; POB Najf Al Ashraf (Najaf), Iraq (individual) [SDT]

HABASH, George (a.k.a. HABBASH, George); Secretary General of POPULAR FRONT FOR THE LIBERATION OF PALESTINE (individual) [SDT]

HABBASH, George (a.k.a. HABASH, George); Secretary General of POPULAR FRONT FOR THE LIBERATION OF PALESTINE (individual) [SDT]

HAWATMA, Nayif (a.k.a. HAWATMEH, Nayif; a.k.a. HAWATMAH, Nayif; a.k.a. KHALID, Abu); Secretary General of DEMOCRATIC FRONT FOR THE LIBERATION OF PALESTINE - HAWATMEH FACTION; DOB 1933 (individual) [SDT]

HAWATMAH, Nayif (a.k.a. HAWATMA, Nayif; a.k.a. HAWATMEH, Nayif; a.k.a. KHALID, Abu); Secretary General of DEMOCRATIC FRONT FOR THE LIBERATION OF PALESTINE - HAWATMEH FACTION; DOB 1933 (individual) [SDT]

HAWATMEH, Nayif (a.k.a. HAWATMA, Nayif; a.k.a. HAWATMAH, Nayif; a.k.a. KHALID, Abu); Secretary General of DEMOCRATIC FRONT FOR THE LIBERATION OF PALESTINE - HAWATMEH FACTION; DOB 1933 (individual) [SDT]

ISLAMBOULI, Mohammad Shawqi; Military Leader of ISLAMIC GAMA'AT; DOB 15 Jan 1955; POB Egypt; Passport No. 304555 (Egypt) (individual) [SDT]

JABRIL, Ahmad (a.k.a. JIBRIL, Ahmad); Secretary General of POPULAR FRONT FOR THE LIBERATION OF PALESTINE - GENERAL COMMAND; DOB 1938; POB Ramleh, Israel (individual) [SDT]

JIBRIL, Ahmad (a.k.a. JABRIL, Ahmad); Secretary General of POPULAR FRONT FOR THE LIBERATION OF PALESTINE - GENERAL COMMAND; DOB 1938; POB Ramleh, Israel (individual) [SDT]

KHALID, Abu (a.k.a. HAWATMEH, Nayif; a.k.a. HAWATMA, Nayif; a.k.a. HAWATMAH, Nayif); Secretary General of DEMOCRATIC FRONT FOR THE LIBERATION OF PALESTINE - HAWATMEH FACTION; DOB 1933 (individual) [SDT]

MARZOOK, Mousa Mohamed Abou (a.k.a. ABU MARZOOK, Mousa Mohammed; a.k.a. ABU-MARZUQ, Dr. Musa; a.k.a. ABU-MARZUQ, Sa'id; a.k.a. ABU-'UMAR; a.k.a. MARZUK, Musa Abu), Political Leader in Amman, Jordan and Damascus, Syria for HAMAS; DOB 09 Feb 1951; POB Gaza, Egypt; SSN 523–33–8386 (U.S.A.); Passport No. 92/664 (Egypt) (individual) [SDT]

MARZUK, Musa Abu (a.k.a. ABU MARZOOK, Mousa Mohammed; a.k.a. ABU-MARZUQ, Dr. Musa; a.k.a. ABU-MARZUQ, Sa'id; a.k.a. ABU-'UMAR; a.k.a. MARZOOK, Mousa Mohamed Abou), Political Leader in Amman, Jordan and Damascus, Syria for HAMAS; DOB 09 Feb 1951; POB Gaza, Egypt; SSN 523–33–8386 (U.S.A.); Passport No. 92/664 (Egypt) (individual) [SDT]

MUGHNIYAH, Imad Fa'iz (a.k.a. MUGHNIYAH, Imad Fayiz); Senior Intelligence Officer of HIZBALLAH; DOB 07 Dec 1962; POB Tayr Dibba, Lebanon; Passport No. 432298 (Lebanon) (individual) [SDT]

MUGHNIYAH, Imad Fayiz (a.k.a. MUGHNIYAH, Imad Fa'iz); Senior Intelligence Officer of HIZBALLAH; DOB 07 Dec 1962; POB Tayr Dibba, Lebanon; Passport No. 432298 (Lebanon) (individual) [SDT]

MUSA, Rifa'i Ahmad Taha (a.k.a. 'ABD-AL-'IZ; a.k.a. ABD-AL-WAHAB, Abd-al-Hai Ahmad; a.k.a. ABU YASIR; a.k.a. 'ABD ALLAH, 'Issam 'Ali Muhammad; a.k.a. AL-KAMEL, Salah 'Ali; a.k.a. TAHA, Rifa'i Ahmad; TAHA MUSA, Rifa'i Ahmad; a.k.a. THABIT 'IZ); DOB 24 Jun 1954; POB Egypt; Passport No. 83860 (Sudan), 30455 (Egypt), 1046403 (Egypt) (individual) [SDT]

NAJI, Talal Muhammad Rashid; Principal Deputy of POPULAR FRONT FOR THE LIBERATION OF PALESTINE - GENERAL COMMAND; DOB 1930; POB Al Nasiria, Palestine (individual) [SDT]

NASRALLAH, Hasan; Secretary General of HIZBALLAH; DOB 31 Aug 1960 or 1953 or 1955 or 1958; POB Al Basuriyah, Lebanon; Passport No. 042833 (Lebanon) (individual) [SDT]

NIDAL, Abu (a.k.a. AL BANNA, Sabri Khalil Abd Al Qadir); Founder and Secretary General of ABU NIDAL ORGANIZATION; DOB May 1937 or 1940; POB Jaffa, Israel (individual) [SDT]

QASEM, Talat Fouad; Propaganda Leader of ISLAMIC GAMA'AT; DOB 02 Jun 1957 or 03 Jun 1957; POB Al Mina, Egypt (individual) [SDT]

SALAH, Mohammad Abd El-Hamid Khalil (a.k.a. AHMAD, Abu; a.k.a. AHMED, Abu; a.k.a. SALAH, Mohammad Abdel Hamid Halil; a.k.a. SALAH, Muhammad A.), 9229 South Thomas, Bridgeview, Illinois 60455, U.S.A.; P.O. Box 2578, Bridgeview, Illinois 60455, U.S.A.; P.O. Box 2616, Bridgeview, Illinois 60455–6616, U.S.A.; Israel; DOB 30 May 1953; SSN 342–52–7612; Passport No. 024296248 (U.S.A.) (individual) [SDT]

SALAH, Mohammad Abdel Hamid Halil (a.k.a. AHMAD, Abu; a.k.a. AHMED, Abu; a.k.a. SALAH, Mohammad Abd El-Hamid Khalil; a.k.a. SALAH, Muhammad A.), 9229 South Thomas, Bridgeview, Illinois 60455, U.S.A.; P.O. Box 2578, Bridgeview, Illinois 60455, U.S.A.; P.O. Box 2616, Bridgeview, Illinois 60455–6616, U.S.A.; Israel; DOB 30 May 1953; SSN 342–52–7612; Passport No. 024296248 (U.S.A.) (individual) [SDT]

SALAH, Muhammad A. (a.k.a. AHMAD, Abu; a.k.a. AHMED, Abu; a.k.a. SALAH, Mohammad Abd El-Hamid Khalil; a.k.a. SALAH, Mohammad Abdel Hamid Halil), 9229 South Thomas, Bridgeview, Illinois 60455, U.S.A.; P.O. Box 2578, Bridgeview, Illinois 60455, U.S.A.; P.O. Box 2616, Bridgeview, Illinois 60455–6616, U.S.A.; Israel; DOB 30 May 1953; SSN 342–52–7612; Passport No. 024296248 (U.S.A.) (individual) [SDT]

SHALLAH, Dr. Ramadan Abdullah (a.k.a. ABDALLAH, Ramadan; a.k.a. ABDULLAH, Dr. Ramadan; a.k.a. SHALLAH, Ramadan Abdalla Mohamed), Damascus, Syria; Secretary General of the PALESTINIAN ISLAMIC JIHAD; DOB 01 Jan 1958; POB Gaza City, Gaza Strip; SSN 589–17–6824 (U.S.A.); Passport No. 265 216 (Egypt) (individual) [SDT]

SHALLAH, Ramadan Abdalla Mohamed (a.k.a. ABDALLAH, Ramadan; a.k.a. ABDULLAH, Dr. Ramadan; a.k.a. SHALLAH, Dr. Ramadan Abdullah), Damascus, Syria; Secretary General of the PALESTINIAN ISLAMIC JIHAD; DOB 01 Jan 1958; POB Gaza City, Gaza Strip; SSN 589–17–6824 (U.S.A.); Passport No. 265 216 (Egypt) (individual) [SDT]

SHAQAQI, Fathi; Secretary General of PALESTINIAN ISLAMIC JIHAD -SHIQAQI (individual) [SDT]

TAHA MUSA, Rifa'i Ahmad (a.k.a. 'ABD-AL-'IZ; a.k.a. ABD-AL-WAHAB, Abd-al-Hai Ahmad; a.k.a. ABU YASIR; a.k.a. 'ABD ALLAH, 'Issam 'Ali Muhammad; a.k.a. AL-KAMEL, Salah 'Ali; a.k.a. MUSA, Rifa'i Ahmad Taha; a.k.a. TAHA, Rifa'i Ahmad; a.k.a. THABIT 'IZ); DOB 24 Jun 1954; POB Egypt; Passport No. 83860 (Sudan), 30455 (Egypt), 1046403 (Egypt) (individual) [SDT]

TAHA, Rifa'i Ahmad (a.k.a. 'ABD-AL-'IZ; a.k.a. ABD-AL-WAHAB, Abd- al-Hai Ahmad; a.k.a. ABU YASIR; a.k.a. 'ABD ALLAH, 'Issam 'Ali Muhammad; a.k.a. AL-KAMEL, Salah 'Ali; a.k.a. MUSA, Rifa'i Ahmad Taha; TAHA MUSA, Rifa'i Ahmad; a.k.a. THABIT 'IZ); DOB 24 Jun 1954; POB Egypt; Passport No. 83860 (Sudan), 30455 (Egypt), 1046403 (Egypt) (individual) [SDT]

TAYSIR (a.k.a. ABDULLAH, Sheikh Taysir; a.k.a. ABU HAFS; a.k.a. AL-MASRI, Abu Hafs; a.k.a. ATEF, Muhammad; a.k.a. EL KHABIR, Abu Hafs el Masry), DOB 1956; POB Egypt (individual) [SDT]

THABIT 'IZ (a.k.a. 'ABD-AL-'IZ; a.k.a. ABD-AL-WAHAB, Abd-al-Hai Ahmad; a.k.a. ABU YASIR; a.k.a. 'ABD ALLAH, 'Issam 'Ali Muhammad; a.k.a. AL-KAMEL, Salah 'Ali; a.k.a. MUSA, Rifa'i Ahmad Taha; a.k.a. TAHA, Rifa'i Ahmad; TAHA MUSA, Rifa'i Ahmad); DOB 24 Jun 1954; POB Egypt; Passport No. 83860 (Sudan), 30455 (Egypt), 1046403 (Egypt) (individual) [SDT]

TUFAYLI, Subhi; Former Secretary General and Current Senior Figure of HIZBALLAH; DOB 1947; POB Biqa Valley, Lebanon (individual) [SDT]

YASIN, Shaykh Ahmad; Founder and Chief Ideological Figure of HAMAS; DOB 1931 (individual) [SDT]

ZAYDAN, Muhammad (a.k.a. ABBAS, Abu); Director of PALESTINE LIBERATION FRONT - ABU ABBAS FACTION; DOB 10 Dec 1948 (individual) [SDT]

ZUMAR, Colonel Abbud (a.k.a. AL-ZUMAR, Abbud); Factional Leader of JIHAD GROUP; Egypt; POB Egypt (individual) [SDT]

This document is explanatory only and does not have the force of law. Executive Order 12947, as amended, and the implementing Terrorism Sanctions Regulations (31 C.F.R Part 595) contain the legally binding provisions governing the sanctions against terrorists who threaten to disrupt the Middle East peace process. Section 321 (18 U.S.C. 2332d) of the Antiterrorism and Effective Death Penalty Act of 1996, Pub.L. 104–132, 110 Stat. 1214–1319 (the "Antiterrorism Act") and the implementing Terrorism List Governments Sanctions Regulations (31 C.F.R. Part 596) contain the legally binding provisions governing sanctions against the governments of countries designated under section 6(j) of the Export Administration Act of 1979, 50 U.S.C. App. 2405, as supporting international terrorism. Sections 302 and 303 of the Antiterrorism Act (new 8 U.S.C. 1189 and 18 U.S.C. 2339B, respectively) and the implementing Foreign Terrorist Organizations Sanctions Regulations (31 C.F.R. Part 597) contain the legally binding provisions governing the sanctions against foreign terrorist organizations. This document does not supplement or modify Executive Order 12947, as amended, the Antiterrorism Act, or 31 C.F.R. Parts 595, 596, or 597.

The Treasury Department's Office of Foreign Assets Control also administers sanctions programs involving Libya, Iraq, the Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-controlled areas of the Republic of Bosnia and Herzegovina, Cuba, the National Union for the Total Independence of Angola (UNITA), North Korea, Iran, Burma (Myanmar), Sudan, narcotics traffi ckers centered in Colombia, and designated foreign persons who have engaged in activities related to the proliferation of weapons of mass destruction. For additional information about these programs or about sanctions involving transactions with terrorists, terrorist organizations, or their agents, please contact the:

OFFICE OF FOREIGN ASSETS CONTROL
U.S. Department of the Treasury
Washington, D.C. 20220
202/622–2520

[06–25–99]

(2) Cuba: What You Need To Know About The U.S. Embargo

An overview of the Cuban Assets Control Regulations—Title 31 Part 515 of the U.S. Code of Federal Regulations

INTRODUCTION

The Cuban Assets Control Regulations, 15 CFR Part 515 (the "Regulations") were issued by the U.S. Government on 8 July 1963 under the Trading With the Enemy Act in response to certain hostile actions by the Cuban government. They are still in force today and affect all U.S. citizens and permanent residents wherever they are located, all people and organizations physically in the United States, and all branches and subsidiaries of U.S. organizations throughout the world. The Regulations are administered by the U.S. Treasury Department's Office of Foreign Assets Control. The basic goal of the sanctions is to isolate the Cuban government economically and deprive it of U.S. dollars. Criminal penalties for violating the sanctions range up to 10 years in prison, $1,000,000 in corporate fines, and $250,000 in individual fines. Civil penalties up to $55,000 per violation may also be imposed. Please note that the Regulations require those dealing with Cuba to maintain records and, upon request from the U.S. Treasury Department, to furnish information regarding such dealings.

EXPORTING TO CUBA

Except for publications, other informational materials (such as CDs and works of art), certain donated food, and certain goods licensed for export by the U.S. Department of Commerce (such as medicine and medical supplies, food, and agricultural commodities), no products, technology, or services may be exported from the United States to Cuba, either directly or through third countries, such as Canada or Mexico. This prohibition includes dealing in or assisting the sale of goods or commodities to or from Cuba, even if done entirely offshore. Such brokering is considered to be dealing in property in which Cuba has an interest. Provision of consulting services is also prohibited. Thus, no U.S. citizen or permanent resident alien, wherever located, and no foreign subsidiary or branch of a U.S. organization may export products, technology, or services to Cuba or to any Cuban national, wherever they may be located, or broker the sale of goods or commodities to or from Cuba or any Cuban national.

The Commerce Department may authorize the sale and export of food and agricultural commodities (including fertilizers, seeds, pesticides, insecticides, and herbicides) to independent nongovernmental entities (including religious groups and private sector undertakings such as family restaurants and private farmers) in

Cuba. Although certain sales may be licensed, U.S. banks are not authorized to provide trade financing for the transactions.

Section 1705(b) of the Cuban Democracy Act (the "CDA") provides for donations of food to independent non-governmental organizations or individuals in Cuba. Shipments of food can be donated to non-governmental organizations from the U.S. or from third countries without the need for a license from the U.S. government. Under Section 1705(c) of the CDA, exports of medicines and medical supplies are allowed, but require a license issued by the U.S. Commerce Department. The Act specifically provides that payments to Cuba involving telecommunications may be made pursuant to specific license. In the mid–1970s, Section 515.559 was added to the Regulations to allow OFAC to license foreign subsidiaries of U.S. firms to conduct trade in commodities with Cuba so long as several specific criteria were met. Section 1706(a) of the CDA, however, prohibits the issuance of a license that would have been issued pursuant to 515.559, except where a contract was entered into prior to enactment of the CDA or where the exports at issue are medicines or medical supplies.

Unless otherwise authorized, no vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has any interest may enter a U.S. port. The prohibition also applies to vessels which enter only to take on fuel and supplies (bunker), whether from U.S. fuel providers within the port limits or at offshore points, as well as vessels discharging or loading merchandise offshore, by lighter or otherwise. In addition, vessels which enter a port or place in Cuba to engage in the trade of goods or services are prohibited from loading or unloading any freight at any place in the U.S. for 180 days. Prohibited entry does not apply to vessels engaging in trade with Cuba authorized by license or exempt from the Regulations (e.g., vessels carrying donations of food to nongovernmental organizations or individuals).

IMPORTING CUBAN-ORIGIN GOODS OR SERVICES

Goods or services of Cuban origin may not be imported into the United States either directly or through third countries, such as Canada or Mexico. The only exceptions are: $100 worth of Cuban merchandise which may be brought into the United States as accompanied baggage by authorized travelers arriving from Cuba; publications, artwork, or other informational materials; merchandise other than tobacco or alcohol and not in commercial quantities carried as accompanied baggage by foreign persons legally entering the United States; and merchandise for which a specific license has been received.

TRANSACTIONS INVOLVING PROPERTY IN WHICH CUBA OR A CUBAN NATIONAL HAS AN INTEREST

In addition to the prohibitions on exports to and imports from Cuba, the Regulations prohibit any person subject to U.S. jurisdiction from dealing in any property in which Cuba or a Cuban national has an interest. Under the Regulations, "property" includes but is not limited to contracts and services. For example, unless otherwise authorized, persons subject to U.S. jurisdiction (including

U.S. overseas subsidiaries) may not purchase Cuban cigars in Mexico; may not sign a contract with a U.K. firm if the contract terms include Cuba-related provisions (even if those provisions are contingent upon the lifting of the embargo); and may not provide accounting, marketing, sales, or insurance services to a Cuban company or to a foreign company with respect to the foreign company's Cuba-related business.

SPECIALLY DESIGNATED NATIONALS

The Regulations prohibit buying from or selling to Cuban nationals whether they are physically located on the island of Cuba or doing business elsewhere on behalf of Cuba. Individuals or organizations who act on behalf of Cuba anywhere in the world are considered by the U.S. Treasury Department to be "Specially Designated Nationals" of Cuba. A non-exhaustive list of their names is published in the Federal Register, an official publication of the U.S. Government. This list may be obtained by calling the Office of Foreign Assets Control at 202/622–2490. The listing, however, is a partial one and any individual or organization subject to U.S. jurisdiction engaging in transactions with foreign nationals must take reasonable care to make certain that such foreign nationals are not acting on behalf of Cuba. Individuals and organizations subject to U.S. jurisdiction who violate the Regulations by transacting business with Specially Designated Nationals of Cuba are subject to criminal prosecution or civil monetary penalties.

ACCOUNTS AND ASSETS

There is a total freeze on Cuban assets, both governmental and private, and on financial dealings with Cuba; all property of Cuba, of Cuban nationals, and of Specially Designated Nationals of Cuba in the possession or control of persons subject to U.S. jurisdiction is "blocked." Any property in which Cuba has an interest which comes into the United States or into the possession or control of persons subject to U.S. jurisdiction is automatically blocked by operation of law. Banks receiving unlicensed wire transfer instructions in which there is a Cuban interest, or any instrument in which there is a Cuban interest, must freeze the funds on their own books or block the instrument, regardless of origin or destination. "Suspense accounts" are not permitted. Blocking imposes a complete prohibition against transfers or transactions of any kind. No payments, transfers, withdrawals, or other dealings may take place with regard to blocked property unless authorized by the Treasury Department. Banks are permitted to take normal service charges. Blocked deposits of funds must be interest-bearing. "Set-offs" are not allowed.

Persons subject to U.S. jurisdiction are required to exercise extreme caution in order not to knowingly involve themselves in unlicensed transactions in which Cuba has an interest. Except as authorized, no bank in the U.S. or overseas branch or subsidiary of a U.S. bank may advise a letter of credit involving Cuba nor may it process documents referencing Cuba. All such "property" must be blocked as soon as it comes within the bank's possession or control. All persons in possession of blocked property are required to reg-

ister with the Office of Foreign Assets Control. Persons subject to U.S. jurisdiction who engage in any commercial dealings that involve unauthorized trade with Cuba, either directly or indirectly, risk substantial monetary penalties and criminal prosecution.

SENDING GIFTS

Gift parcels may be sent or carried by an authorized traveler to an individual or to a religious, charitable, or educational organization in Cuba for the use of the recipient or of the recipient's immediate family (and not for resale), subject to the following limitations: the combined total domestic retail value of all items in the parcel must not exceed $200 (with the exception of donations of food, which are not so restricted); not more than one parcel may be sent or given by the same person in the U.S. to the same recipient in Cuba in any one calendar month; and the content must be limited to food, vitamins, seeds, medicines, medical supplies and devices, hospital supplies and equipment, equipment for the handicapped, clothing, personal hygiene items, veterinary medicines and supplies, fishing equipment and supplies, soap-making equipment, or certain radio equipment and batteries for such equipment. Organizations that consolidate and send multiple gift parcels in single shipments must obtain a validated license from the U.S. Department of Commerce. Each gift parcel in the single shipment must meet commodity, dollar-value, and frequency limitations. If a parcel being shipped or carried to Cuba fails to meet these standards, it is subject to seizure by the U.S. Government.

CUBA-RELATED TRAVEL TRANSACTIONS

Only persons whose travel falls into the categories discussed below are authorized to spend money related to travel to, from, or within Cuba. Persons licensed to engage in travel-related transactions in Cuba may spend up to the State Department Travel Per Diem Allowance for Havana, Cuba (currently $183 per day) for purchases directly related to travel in Cuba, such as hotel accommodations, meals, local transportation, and goods personally used by the traveler in Cuba (travelers can check the current per diem rate on the Internet at <<http://www.state.gov/www/perdiems/index.html>>). Most licensed travelers may also spend additional money for transactions directly related to the activities for which they received their license. For example, journalists traveling in Cuba under the journalism general license (described below) may spend money over and above the current per diem for extensive local transportation, the hiring of cable layers, and other costs that are directly related to covering a story in Cuba. Licensed travelers may also spend an additional $100 on the purchase of Cuban merchandise to be brought back with them to the United States as accompanied baggage, but this $100 authorization may be used only once in any 6-month period. Purchases of services unrelated to travel or a licensed activity, such as non-emergency medical services, are prohibited. The purchase of publications and other informational materials is not restricted.

General license: The following categories of travelers are permitted to spend money for Cuban travel and to engage in other

transactions directly incident to the purpose of their travel under a general license without the need to obtain special permission from the U.S. Treasury Department:

- Official Government Travelers - U.S. and foreign government officials, including representatives of international organizations of which the United States is a member, who are traveling on official business.
- Persons regularly employed as journalists by a news reporting organization and persons regularly employed as supporting broadcast or technical personnel who travel to Cuba to engage in journalistic activities.
- Persons who are traveling to visit close relatives in Cuba in circumstances of humanitarian need. This authorization is valid without a specific license from the Office of Foreign Assets Control only once every twelve months. Persons traveling under this general license may not spend money on transactions that will cause them to exceed the current per diem allowance.
- Full-time professionals whose travel transactions are directly related to professional research in their professional areas, provided that their research (1) is of a noncommercial, academic nature; (2) comprises a full work schedule in Cuba; and (3) has a substantial likelihood of public dissemination.
- Full-time professionals whose travel transactions are directly related to attendance at professional meetings or conferences in Cuba organized by an international professional organization, institution, or association that regularly sponsors such meetings or conferences in other countries. The organization, institution, or association sponsoring the meeting or conference may not be headquartered in the United States unless it has been specifically licensed to sponsor the meeting. The purpose of the meeting or conference cannot be the promotion of tourism in Cuba or other commercial activities involving Cuba, or to foster production of any biotechnological products.
- Amateur or semi-professional athletes or teams traveling to participate in Cuba in an athletic competition held under the auspices of the relevant international sports federation. The athletes must have been selected for the competition by the relevant U.S. sports federation, and the competition must be one that is open for attendance, and in relevant situations participation, by the Cuban public.

Specific licenses for educational institutions: Specific licenses authorizing travel transactions related to certain educational activities by any students or employees affiliated with a licensed academic institution may be issued by the Office of Foreign Assets Control. Such licenses are only available to U.S. academic institutions accredited by an appropriate national or regional accrediting association, and such licenses must be renewed after a period of two years. Once an academic institution has applied for and received such a specific license, the following categories of travelers affiliated with that academic institution are authorized to engage in travel-related transactions incident to the following activities

without seeking further authorization from the Office of Foreign Assets Control:

- Undergraduate or graduate students participating in a structured educational program as part of a course offered at a licensed college or university. Students planning to engage in such transactions must carry a letter from the licensed institution stating 1) the institution's license number, 2) that the student is enrolled in an undergraduate or graduate degree program at the institution, and 3) that the travel is part of an educational program of the institution.
- Persons doing noncommercial Cuba-related academic research in Cuba for the purpose of qualifying academically as a professional (e.g., research toward a graduate degree). Students planning to engage in such transactions must carry a letter from the licensed institution stating 1) the institution's license number, 2) that the student is enrolled in a graduate degree program at the institution, and 3) that the Cuba research will be accepted for credit toward that graduate degree.
- Undergraduate or graduate students participating in a formal course of study at a Cuban academic institution, provided the Cuban study will be accepted for credit toward a degree at the licensed U.S. institution. A student planning to engage in such transactions must carry a letter from the licensed U.S. institution stating 1) the institution's license number, 2) that the student is currently enrolled in an undergraduate or graduate degree program at the institution, and 3) that the Cuban study will be accepted for credit toward that degree.
- Persons regularly employed in a teaching capacity at a licensed college or university who plan to teach part or all of an academic program at a Cuban academic institution. An individual planning to engage in such transactions must carry a letter from the licensed institution stating 1) the institution's license number, and 2) that the individual is regularly employed by the licensed institution in a teaching capacity.
- Cuban scholars teaching or engaging in other scholarly activities at a licensed college or university in the United States. Licensed institutions may sponsor such Cuban scholars, including payment of a stipend or salary.
- Secondary school students participating in educational exchanges sponsored by Cuban or U.S. secondary schools and involving the students' participation in a formal course of study or in a structured educational program offered by a secondary school or other academic institution and led by a teacher or other secondary school official. A reasonable number of adult chaperones may accompany the students to Cuba. A secondary school group planning to engage in such transactions in Cuba must carry a letter from the licensed secondary school sponsoring the trip stating 1) the school's license number, and 2) the list of names of all persons traveling with the group.
- Full-time employees of a licensed institution organizing or preparing for the educational activities described above. An individual engaging in such transactions must carry a letter from the licensed institution stating 1) the institution's license number, and 2) that the individual is regularly employed there.

Specific licenses for religious organizations: Specific licenses authorizing travel transactions related to religious activities by any individuals or groups affiliated with a religious organization may be issued by the Office of Foreign Assets Control. Such licenses are only available to religious organizations located in the United States, and such licenses must be renewed after a period of two years. Once a religious organization has applied for and received such a specific license, travelers affiliated with that religious organization are authorized to engage in travel-related transactions incident to a full-time program of religious activities in Cuba under the auspices of the licensed religious organization without seeking further authorization from the Office of Foreign Assets Control. Individuals planning to engage in such transactions must carry a letter from the licensed religious organization stating 1) the organization's license number, 2) that they are affiliated with the licensed organization, and 3) that they are traveling to Cuba to engage in religious activities under the auspices of the licensed organization.

Other specific licenses: Specific licenses may be issued by the Office of Foreign Assets Control on a case-by-case basis authorizing travel transactions by the following categories of persons in connection with the following activities:

- Humanitarian Travel - (1) persons, and persons traveling with them who share a common dwelling with them, traveling to Cuba more than once in a twelve-month period to visit close relatives in cases involving humanitarian need; (2) persons traveling to Cuba to accompany licensed humanitarian donations (other than gift parcels) or exempt donations of food; (3) persons traveling in connection with activities of recognized human rights organizations investigating specific human rights violations; and (4) persons whose travel transactions are directly related to certain humanitarian projects in or related to Cuba that are designed to directly benefit the Cuban people. Licenses authorizing transactions for multiple trips over an extended period of time are available for travel under (3) and (4) above.
- Free-Lance Journalism - Persons with a suitable record of publication who are traveling to Cuba to do research for a free-lance article. Licenses authorizing transactions for multiple trips over an extended period of time are available for applicants demonstrating a significant record of free-lance journalism.
- Professional Research and Professional Meetings - Persons traveling to Cuba to do professional research or to attend a professional meeting that does not meet the requirements of the relevant general license (described above). Licenses authorizing transactions for multiple trips over an extended period of time are available.
- Educational Activities - Persons traveling to engage in educational activities that are not authorized pursuant to an academic institution's specific license, including educational exchanges not involving academic study pursuant to a degree program when those exchanges take place under the auspices of an organization that sponsors and organizes such programs to promote people-to-people contact.

- Religious Activities - Persons traveling to Cuba to engage in religious activities that are not authorized pursuant to a religious organization's specific license. Licenses authorizing transactions for multiple trips over an extended period of time are available.
- Public Performances, Clinics, Workshops, Athletic and Other Competitions, and Exhibitions - Persons traveling to participate in a public performance, clinic, workshop, athletic or other competition (that does not meet the requirements of the general license described above), or exhibition. The event must be open for attendance, and in relevant situations participation, by the Cuban public, and all profits from the event after costs must be donated to an independent nongovernmental organization in Cuba or a U.S.-based charity, with the objective, to the extent possible, of promoting people-to-people contacts or otherwise benefitting the Cuban people.
- Activities of Private Foundations or Research or Educational Institutions - Persons traveling to Cuba on behalf of private foundations or research or educational institutes that have an established interest in international relations to collect information related to Cuba for noncommercial purposes. Licenses authorizing transactions for multiple trips over an extended period of time are available.
- Exportation, Importation, or Transmission of Information or Informational Materials - Persons traveling to engage in activities directly related to the exportation, importation, or transmission of information or informational materials.
- Licensed Exportation - Persons traveling to Cuba to engage in activities directly related to marketing, sales negotiation, accompanied delivery, or servicing of exports of health care products or other exports that may be considered for authorization under existing Department of Commerce regulations and guidelines with respect to Cuba or engaged in by U.S.-owned or -controlled foreign firms.

Applying for a specific license: Persons wishing to travel to Cuba under a specific license should send a letter specifying the details of the proposed travel, including any accompanying documentation, to Steven Pinter, Chief of Licensing, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave., NW, Washington, DC 20220. Academic institutions wishing to obtain one of the two-year specific licenses described above should send a letter to the same address requesting such a license and establishing that the institution is accredited by an appropriate national or regional accrediting association. Religious organizations wishing to obtain one of the two-year specific licenses described above should send a letter to the same address requesting such a license and setting forth examples or religious activities to be undertaken in Cuba.

Provision of travel services: U.S. travel service providers, such as travel agents and tour operators, who handle travel arrangements to, from, or within Cuba must hold special authorizations from the Office of Foreign Assets Control to engage in such activities. These authorizations are issued based on written applications from the service providers, subject to appropriate checks by the Treasury

Department. A traveler should not use any travel service provider that does not hold valid Treasury authorization. If in doubt about the status of a service provider's authorization, travelers should call the Office of Foreign Assets Control at 305/810–5140. Only carrier service providers that have been authorized by OFAC may operate direct humanitarian passenger charter flights between Miami and Havana.

Unauthorized travel-related transactions: Unless otherwise exempted or authorized, any person subject to U.S. jurisdiction who engages in any travel-related transaction in Cuba violates the Regulations. Persons not licensed to engage in travel- related transactions may travel to Cuba without violating the Regulations only if all Cuba-related expenses are covered by a person not subject to U.S. jurisdiction and provided that the traveler does not provide any service to Cuba or a Cuban national. Such travel is called "fully-hosted" travel. Travel to Cuba may be considered fully hosted even if the traveler pays for a plane ticket provided that the travel is not aboard a Cuban carrier. Travel to Cuba is not fully hosted if a person subject to U.S. jurisdiction pays—before, during, or after the travel—any expenses relating to the travel, including travel to Cuba on a Cuban carrier, even if the payment is made to a third-country person or entity that is not subject to U.S. jurisdiction. Examples of costs commonly incurred by persons traveling to, from, and within Cuba are expenses for meals, lodging, transportation, bunkering of vessels or aircraft, visas, entry or exit fees, and gratuities. Fully-hosted travel to and from Cuba cannot be aboard a direct flight between the United States and Cuba. The authorization for licensed travelers to purchase and return to the United States with $100 worth of Cuban merchandise does not apply to fully-hosted travelers.

Any person subject to U.S. jurisdiction determined to have traveled to Cuba without an OFAC general or specific license is presumed to have engaged in prohibited travel-related transactions. In order to overcome this presumption, any traveler who claims to have been fully hosted or not to have engaged in any travel-related transactions may be asked by Federal enforcement agencies to provide a signed explanatory statement accompanied by any relevant supporting documentation.

SENDING OR CARRYING MONEY TO CUBA

U.S. persons aged 18 or older may send to the household of any individual in Cuba "individual-to-household" cash remittances of up to $300 per household in any consecutive three-month period, provided that no member of the household is a senior-level Cuban government or senior-level Cuban communist party official.

U.S. persons aged 18 or older may send to the household of any close relative of the remitter or the remitter's spouse "family" cash remittances of up to $300 per household in any consecutive three-month period. No more than a combined total of $300 of individual-to-household and family remittances may be sent by a remitter to any one household in any consecutive three-month period, regardless of the number of close relatives or other persons residing in that household. A close relative means a spouse, child, grandchild, parent, grandparent, great-grandparent, uncle, aunt, brother, sis-

ter, nephew, niece, first cousin, mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law, brother-in-law, or spouse, widow, or widower of any of those people.

U.S. persons also may send up to $1,000 per payee on a one-time basis as an "emigration-related" remittance to a Cuban national to enable the payee to emigrate from Cuba to the United States. Specifically, up to $500 may be remitted to a Cuban national prior to the payee's receipt of a valid U.S. visa or other U.S. immigration document, and up to $500 may be remitted to the Cuban national after the payee receives a valid U.S. visa or other U.S. immigration document.

Remittances may be transferred through a financial institution or through an OFAC-licensed remittance forwarder. Service providers, including financial institutions originating transfers on behalf of non-aggregating customers, must obtain an affidavit from the remitter certifying that each individual-to-household and family remittance does not exceed $300 in any consecutive three month period and that each emigration-related remittance meets the requirements of the Regulations (see TD F 90–22.52 at the end of this brochure). Remitters can expect to have their identity, date of birth, address, and telephone number verified.

Persons licensed to engage in travel-related transactions (this does not include fully-hosted travelers) may carry their own remittances, provided that they may carry no more than a combined total of $300 of individual-to-household and family remittances, and provided that no emigration-related remittances may be carried before the payee has received a valid U.S. visa or other immigration document and the traveler can supply the visa number and the date of issuance.

Specific licenses may be issued on a case-by-case basis authorizing remittances:

- to independent nongovernmental organizations in Cuba;
- by Cuban scholars authorized to teach or engage in scholarly activity at a U.S. college or university who wish to repatriate earnings in excess of $300;
- to households of Cuban nationals living outside of Cuba in excess of $300 per quarter from blocked accounts; or
- to individuals in Cuba to facilitate their non-immigrant travel to the United States under circumstances where humanitarian need is demonstrated, including illness or medical emergency.

FAIR BUSINESS PRACTICES

Anyone authorized by the U.S. Department of the Treasury to provide Cuban travel services or services in connection with sending money to Cuba is prohibited from participating in discriminatory practices of the Cuban government against individuals or particular classes of travelers. The assessment of consular fees by the Cuban government, which are applicable worldwide, is not considered to be a discriminatory practice. However, requiring the purchase of services not desired by the traveler is not permitted. Persons wishing to provide information on such activities should call 305/810–5170. All information regarding arbitrary fees, payments

for unauthorized purposes, or other possible violations furnished to the U.S. Treasury Department will be handled confidentially.

ESTATES AND SAFE DEPOSIT BOXES

An estate becomes blocked whenever a Cuban national is an heir or is the deceased; money from a life insurance policy is blocked whenever the deceased is a Cuban resident. The heir of a person who died in Cuba, or the beneficiary of a life insurance policy of a person who died in Cuba, may apply for a license from the Office of Foreign Assets Control to unblock the estate or insurance proceeds. Persons administering or interested in a blocked estate should contact the Office of Foreign Assets Control at 202/622–2480 for more information. A safe-deposit box is blocked whenever a Cuban has an interest in the property contained in the box. Access to a blocked safe deposit box for inventory purposes may be granted under certain conditions, but the contents of the box remain blocked and may not be removed without the permission of the Office of Foreign Assets Control.

PAYMENTS FOR OVERFLIGHTS

Private and commercial aviators must obtain a specific license authorizing payments for overflight charges to Cuba. Banks will ask to see the originals of such licenses before executing transfers and keep a copy for their files. Such transfers must be in a currency other than U.S. dollars.

If you have information regarding possible violations of the Cuban Assets Control Regulations, please call the Office of Foreign Assets Control at 305/810–5170. Your call will be handled confidentially.

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This document is explanatory only and does not have the force of law. The statutes, Executive Orders, and implementing regulations relating to Cuba contain the legally binding provisions governing the sanctions and this document does not supplement or modify those statutes, Executive Orders or regulations.

The Treasury Department's Office of Foreign Assets Control also administers sanctions programs involving Iraq, Libya, the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Serbia, North Korea, the National Union for the Total Independence of Angola (UNITA), the Taliban in Afghanistan, Iran, Syria, Sudan, Burma (Myanmar), Foreign Terrorist Organizations, designated terrorists and narcotics traffickers, and designated foreign persons who have engaged in activities related to the proliferation of weapons of mass destruction. For additional information about these programs or about the Cuban sanctions program, please contact the:

OFFICE OF FOREIGN ASSETS CONTROL
U.S. Department of the Treasury
Washington, D.C. & Miami, Florida
202–622–2520 / 305–810–5140
<<http://www.treas.gov/ofac>>

(07–26–99)

(3) Iran: What You Need to Know about U.S. Economic Sanctions

An overview of O.F.A.C. Regulations involving Sanctions against Iran

IRANIAN TRANSACTIONS REGULATIONS—31 C.F.R. PART 560

As a result of Iran's support for international terrorism and its aggressive actions against non-belligerent shipping in the Persian Gulf, President Reagan, on October 29, 1987, issued Executive Order 12613 imposing a new import embargo on Iranian-origin goods and services. Section 505 of the International Security and Development Cooperation Act of 1985 ("ISDCA") was utilized as the statutory authority for the embargo which gave rise to the Iranian Transactions Regulations (Title 31 Part 560 of the U.S. Code of Federal Regulations).

Effective March 16, 1995, as a result of Iranian sponsorship of international terrorism and Iran's active pursuit of weapons of mass destruction, President Clinton issued Executive Order 12957 prohibiting U.S. involvement with petroleum development in Iran. On May 6, 1995, he signed Executive Order 12959, pursuant to the International Emergency Economic Powers Act ("IEEPA") as well as the ISDCA, substantially tightening sanctions against Iran.

On August 19, 1997, the President signed Executive Order 13059 clarifying Executive Orders 12957 and 12959 and confirming that virtually all trade and investment activities with Iran by U.S. persons, wherever located, are prohibited. Corporate criminal penalties for violations of the Iranian Transactions Regulations can range up to $500,000, with individual penalties of up to $250,000 and 10 years in jail. Civil penalties of up to $11,000 may also be imposed administratively.

This fact sheet provides general information about the Iranian sanctions program under the Iranian Transactions Regulations, and incorporates sanctions imposed by Executive Orders 12957, 12959 and 13059. The sanctions are administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC").

IMPORTS FROM IRAN

Other than gifts valued at $100 or less and information or informational materials, goods or services of Iranian origin may not be imported into the United States, either directly or through third countries. U.S. persons are prohibited from providing financing for prohibited import transactions.

IRANIAN-ORIGIN CARPETS

Iranian-origin carpets may not be imported into the United States unless the carpet:

(a) is sent to or brought as a gift for a person in the United States and the value of the carpet, along with any other items of Iranian-origin, is not more than $100.00; or

(b) is imported as part of the household and personal effects of persons relocating their household and place of residence to the United States. To qualify for this exception, it must be demonstrated to the satisfaction of the U.S. Customs Service that such Iranian-origin carpets: (i) were actually used abroad by persons arriving in the United States or by other family members arriving from the same foreign household, (ii) are not intended for any other person or for sale, and (iii) are not otherwise prohibited from importation. In the case of U.S. citizens and permanent resident aliens relocating to the United States, Iranian-origin carpets must not have been acquired after May 6, 1995.

Persons claiming the right to import Iranian-origin carpets as gifts or household and personal effects, as described above, must satisfy the U.S. Customs Service at the port of importation that these conditions have been met. In accordance with current U.S. Government policy, the Office of Foreign Assets Control generally does not issue licenses to authorize importations of Iranian-origin carpets which the U.S. Customs Service has determined do not qualify for importation under these two exceptions.

EXPORTS TO IRAN

In general, unless licensed by OFAC, goods, technology (including technical data or other information subject to Export Administration Regulations), or services may not be exported, reexported, sold or supplied, directly or indirectly, from the United States or by a U.S. person, wherever located, to Iran or the Government of Iran. The ban on providing services includes any brokering function from the United States or by U.S. persons, wherever located. For example, a U.S. person, wherever located, or any person acting within the United States, may not broker offshore transactions that benefit Iran or the Government of Iran, including sales of foreign goods or arranging for third-country financing or guarantees.

In general, a person may not export from the U.S. any goods, technology or services, if that person knows or has reason to know such items are intended specifically for supply, transshipment or reexportation to Iran. Further, such exportation is prohibited if the exporter knows or has reason to know the U.S. items are intended specifically for use in the production of, for commingling with, or for incorporation into goods, technology or services to be directly or indirectly supplied, transshipped or reexported exclusively or predominately to Iran or the Government of Iran. A narrow exception is created for the exportation from the United States or by U.S. persons wherever located of low-level goods or technology to third countries for incorporation or substantial transformation into foreign-made end products, provided the U.S. content is insubstantial, as defined in the regulations, and certain other conditions are met.

Donations of articles intended to relieve human suffering (such as food, clothing, and medicine), gifts valued at $100 or less, licensed exports of agricultural commodities and products, medicine, and medical equipment, and trade in "informational materials" are permitted. "Informational materials" are defined to include publica-

tions, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds, although certain Commerce Department restrictions still apply to some of those materials. To be considered informational material, artworks must be classified under chapter subheadings 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

With certain exceptions, foreign persons who are not U.S. persons are prohibited from reexporting to Iran sensitive U.S.-origin goods, technology or services to Iran or the Government of Iran. Foreign persons involved in such reexports may be placed on the U.S. Commerce Department's "Export Denial Orders" list.

U.S. persons may not approve, finance, facilitate or guarantee any transaction by a foreign person where that transaction by a foreign person would be prohibited if performed by a U.S. person or from the United States.

DEALING IN IRANIAN-ORIGIN GOODS OR SERVICES

U.S. persons, including foreign branches of U.S. banks and trading companies, are prohibited from engaging in any transactions, including purchase, sale, transportation, swap, financing, or brokering transactions related to goods or services of Iranian origin or owned or controlled by the Government of Iran.

Services provided in the United States by an Iranian national already resident in the United States are not considered services of Iranian origin.

These prohibitions apply to transactions by United States persons in locations outside the United States with respect to goods or services which the United States person knows, or has reason to know, are of Iranian origin or are owned or controlled by the Government of Iran. U.S. persons may not import such goods or services into or export them from foreign locations. A U.S. person may, however, engage in transactions in third countries necessary to sell, dispose of, store, or maintain goods located in a third country which were legally acquired by that U.S. person prior to May 7, 1995 on the condition that the transactions do not result in an importation into the United States of goods of Iranian origin.

FINANCIAL DEALINGS WITH IRAN

New investments by U.S. persons, including commitments of funds or other assets, loans or any other extensions of credit, in Iran or in property (including entities) owned or controlled by the Government of Iran are prohibited. For your information, Appendix A contains a list of banks owned or controlled by the Government of Iran. While U.S. persons may continue to charge fees and accrue interest on existing Iranian loans, a specific license must be obtained to reschedule or otherwise extend the maturities of existing loans.

Payments for licensed sales of agricultural commodities and products, medicine and medical supplies must reference an appropriate OFAC license and may not involve a debit or credit to an account of a person in Iran or the Government of Iran maintained on the books of a U.S. depository institution. Payments for and financing of such licensed sales may be accomplished by cash in ad-

vance, sales on open account (provided the account receivable is not transferred by the person extending the credit), or by third country financial institutions that are neither U.S. persons nor government of Iran entities. Any other arrangements must be specifically authorized by OFAC. U.S. banks may advise and confirm letters of credit issued by third country banks covering licensed sales of agricultural commodities and products, medicine and medical supplies.

LETTERS OF CREDIT

Letters of credit and other financing arrangements with respect to trade contracts in force as of May 6, 1995 may be performed pursuant to their terms provided that the underlying trade transaction was completed prior to June 6, 1995 (February 2, 1996 for "agricultural commodities") or as specifically licensed by the Office of Foreign Assets Control. Standby letters of credit that serve as performance guarantees for services to be rendered after June 6, 1995 cannot be renewed and payment may not be made after that date without authorization by OFAC.

OTHER BANKING SERVICES

U.S. banks, including foreign branches, are prohibited from servicing accounts of the Government of Iran, including banks owned or controlled by the Government of Iran (as in Appendix A) or persons in Iran. However, they are authorized to pay interest, deduct reasonable and customary service charges, process transfers related to exempt transactions, such as the exportation of information or informational material, a travel-related remittance, or a payment for the shipment of a donation of articles to relieve human suffering or, at the request of an account holder, effect a lump sum closure of an account by payment to its owner. They may not otherwise directly credit or debit Iranian accounts.

U.S. banks may handle "U-turn" transactions—cover payments involving Iran that are by order of a third country bank for payment to another third country bank provided they do not directly credit or debit an Iranian account. They are also permitted to handle non-commercial family remittances involving Iran and non-commercial remittances involving humanitarian relief (such as for the victims of the earthquake in Khorasan), provided the transfers are routed to or from non-U.S. non-Iranian offshore banks.

U.S. banks initiating or receiving payment orders involving Iran on behalf of customers must determine prior to processing such payments that they do not involve transactions prohibited by the Iranian Transactions Regulations.

TRAVEL

All transactions ordinarily incident to travel to or from Iran, including the importation of accompanied baggage for strictly personal use, payment of maintenance and living expenses and acquisition of goods or services for personal use are permitted.

OVERFLIGHTS PAYMENTS

Payments to Iran for services rendered by the Government of Iran in connection with the overflight of Iran or emergency landing

in Iran of aircraft owned by United States persons or registered in the U.S. are authorized.

PERSONAL COMMUNICATIONS, INFORMATION AND INFORMATIONAL MATERIALS

The receipt or transmission of postal, telegraphic, telephonic or other personal communications, which does not involve the transfer of anything of value, between the United States and Iran is authorized. The exportation from the United States to Iran of information and informational materials, whether commercial or otherwise, regardless of format or medium of transmission, and any transaction incident to such exportation is authorized.

TRANSACTIONS INVOLVING U.S. AFFILIATES

No U.S. person may approve or facilitate the entry into or performance of transactions or contracts with Iran by a foreign subsidiary of a U.S. firm that the U.S. person is precluded from performing directly. Similarly, no U.S. person may facilitate such transactions by unaffiliated foreign persons.

IRANIAN PETROLEUM INDUSTRY

U.S. persons may not trade in Iranian oil or petroleum products refined in Iran, nor may they finance such trading. Similarly, U.S. persons may not perform services, including financing services, or supply goods or technology, that would benefit the Iranian oil industry.

APPENDIX A

BANKS OWNED OR CONTROLLED BY THE GOVERNMENT OF IRAN

AGRICULTURAL COOPERATIVE BANK OF IRAN (a.k.a. BANK TAAVON KESHAVARZI IRAN), No. 129 Patrice Lumumba Street, Jalal-Al-Ahmad Expressway, P.O. Box 14155/6395, Tehran, Iran

AGRICULTURAL DEVELOPMENT BANK OF IRAN (a.k.a. BANK JOSIAIYI KESHAHVARZI), Farahzad Expressway, Tehran, Iran

BANK JOSIAIYI KESHAHVARZI (a.k.a. AGRICULTURAL DEVELOPMENT BANK OF IRAN), Farahzad Expressway, Tehran, Iran

BANK MARKAZI JOMHOURI ISLAMI IRAN (a.k.a. THE CENTRAL BANK OF IRAN), Ferdowsi Avenue, P.O. Box 11365–8551, Tehran, Iran

BANK MASKAN (a.k.a. HOUSING BANK (of Iran)), Ferdowsi St., Tehran, Iran

BANK MELLAT, Park Shahr, Varzesh Avenue, P.O. Box 11365/5964, Tehran, Iran, and all offices worldwide, including, but not limited to:

- BANK MELLAT (Branch), Ziya Gokalp Bulvari No. 12, Kizilay, Ankara, Turkey
- BANK MELLAT (Branch), Binbir Cicek Sokak, Buyukdere Caddesi, P.O. Box 67, Levant, Istanbul, Turkey

BANK MELLAT (Branch), 48 Gresham Street, London EC2V 7AX, England

BANK MELLI, P.O. Box 11365–171, Ferdowsi Avenue, Tehran, Iran, and all offices worldwide, including, but not limited to:

BANK MELLI (Branch), 4 Moorgate, London EC2R 6AL, England

BANK MELLI (Branch), Schadowplatz 12, 4000 Dusseldorf 1, Germany

BANK MELLI (Branch), Friedenstrasse 4, P.O. Box 160 154, 6000 Frankfurt am Main, Germany

BANK MELLI (Branch), P.O. Box 112129, Holzbruecke 2, 2000 Hamburg 11, Germany

BANK MELLI (Branch), Odeonsplatz 18, 8000 Munich 22, Germany

BANK MELLI (Branch), 43 Avenue Montaigne, 75008 Paris, France

BANK MELLI (Branch), 601 Gloucester Tower, The Landmark, 11 Pedder Street, P.O. Box 720, Hong Kong

BANK MELLI (Representative Office), 333 New Tokyo Building, 3–1 Marunouchi, 3-chome, Chiyoda-ku, Tokyo, Japan

BANK MELLI (Representative Office), 818 Wilshire Boulevard, Los Angeles, California 90017, U.S.A

BANK MELLI (Representative Office), 767 Fifth Avenue, 44th Floor, New York, New York 10153, U.S.A

BANK MELLI (Representative Office), Smolensky Boulevard 22/14, Kv. S., Moscow, Russia

BANK MELLI (Branch), Flat No. 1, First Floor, 8 Al Sad El-Aaly, Dokki, P.O. Box 2654, Cairo, Egypt

BANK MELLI (Branch), Ben Yas Street, P.O. Box No. 1894, Riga Deira, Dubai, U.A.E

BANK MELLI (Branch), P.O. Box 2656, Shaikha Maryam Building, Liwa Street, Abu Dhabi, U.A.E

BANK MELLI (Branch), B.P.O. Box 1888, Clock Tower, Industrial Road, Al-Ain Club Building in from Emertel Al Ain, Al Ain, Abu Dhabi, U.A.E

BANK MELLI (Branch), P.O. Box 1894, Riqa, Ban Yas Street, Deira, Dubai, U.A.E

BANK MELLI (Branch), Mohd-Habib Building, Al-Fahidi Street, P.O. Box 3093, Bur Dubai, Dubai, U.A.E

BANK MELLI (Branch), P.O. Box 248, Fujairah, U.A.E

BANK MELLI (Branch), Sami Sagar Building Oman Street Al-Nakheel, P.O. Box 5270, Ras-Al Khaimah, U.A.E

BANK MELLI (Branch), P.O. Box 459, Al Bory Street, Sharjah, U.A.E.

BANK MELLI (Branch), P.O. Box 785, Government Road, Shaikh Mubarak Building, Manama, Bahrain

BANK MELLI (Branch), P.O. Box 23309, Shaikh Salman Street, Road No. 1129, Muharraq 211, Bahrain

BANK MELLI (Branch), P.O. Box 5643, Mossa Abdul Rehman Hassan Building, 238 Al Burj St., Ruwi, Muscat, Oman

BANK OF INDUSTRY AND MINE (of Iran) (a.k.a. BANK SANAT VA MADAN), Hafez Avenue, P.O. Box 11365/4978, Tehran, Iran

BANK REFAH KARGARAN (a.k.a. WORKERS WELFARE BANK (of Iran)), Moffettah No. 125, P.O. Box 15815 1866, Tehran, Iran

BANK SADERAT IRAN, Bank Saderat Tower, P.O. Box 15745–631, Somayeh Street, Tehran, Iran, and all offices worldwide, including, but not limited to:

- BANK SADERAT IRAN (Branch), Hamdam Street, Airport Road Intersection, P.O. Box 700, Abu Dhabi, U.A.E
- BANK SADERAT IRAN (Branch), Al-Am Road, P.O. Box 1140, Al Ein, Abu Dhabi, U.A.E
- BANK SADERAT IRAN (Branch), Liwara Street, P.O. Box 16, Ajman, U.A.E
- BANK SADERAT IRAN (Branch), 3rd Floor Dom Dasaf Building, Mejloka Street 7A, Ashkhabad, Turkmenistan
- BANK SADERAT IRAN (Branch), 25–29 Panepistimiou Street, P.O. Box 4308, GR–10210, Athens 10672, Greece
- BANK SADERAT IRAN (Branch), Imam Ali Street, Sahat Yaghi, Ras Elain-Alektisad Building 2nd Floor, Baalbeck, Lebanon
- BANK SADERAT IRAN (Branch and Offshore Banking Unit), 106 Government Road, P.O. Box 825, Manama Town 316, Bahrain
- BANK SADERAT IRAN (Branch), Hamra Pavillion Street, Savvagh and Daaboul Building 1st Floor, P.O. Box 113–6717, Beirut, Lebanon
- BANK SADERAT IRAN (Branch), Alghobairi Boulevard, Beirut, Lebanon
- BANK SADERAT IRAN (Branch), 28 Sherif Street, P.O. Box 462, Cairo, Egypt
- BANK SADERAT IRAN (Branch), Old Ben-Ghanem Street (next to God Market), P.O. Box 2256, Doha, Qatar
- BANK SADERAT IRAN (Branch), Almaktoum Road, P.O. Box 4182, Deira, Dubai, U.A.E
- BANK SADERAT IRAN (Branch), Bazar Murshid, P.O. Box 4182, Deira, Dubai, U.A.E
- BANK SADERAT IRAN (Branch), Alfahid Road, P.O. Box 4182, Bur Dubai, Dubai, U.A.E
- BANK SADERAT IRAN (Branch), Sherea Shekikh Zayad Street, P.O. Box 55, Fujairah, U.A.E
- BANK SADERAT IRAN (Branch), Wilhelm Leuschner Strasse 41, P.O. Box 160151, W–6000 Frankfurt am Main, Germany
- BANK SADERAT IRAN (Branch), P.O. Box 112227, Hopfenhof Passage, Kleiner Bustah 6–10, W–2000 Hamburg 11, Germany
- BANK SADERAT IRAN (Branch), Lothbury, London EC2R 7HD, England
- BANK SADERAT IRAN (Representative Office), 707 Wilshire Boulevard, Suite 4880, Los Angeles, California 90017, U.S.A
- BANK SADERAT IRAN (Representative Office), 55 East 59th Street, 16th Floor, New York, New York 10022
- BANK SADERAT IRAN (Branch), P.O. Box 4269, Mutrah, Muscat, Oman
- BANK SADERAT IRAN (Branch), 16 rue de la Paix, Paris 2eme, 75002 Paris, France

BANK SADERAT IRAN (Branch), Alaroba Road, P.O. Box 316, Sharjah, U.A.E

BANK SANAT VA MADAN (a.k.a. BANK OF INDUSTRY AND MINE (of Iran)), Hafez Avenue, P.O. Box 11365/4978, Tehran, Iran

BANK SEPAH, Emam Khomeini Square, P.O. Box 11364, Tehran, Iran, and all offices worldwide, including, but not limited to:

BANK SEPAH (Branch), Muenchener Strasse 49, P.O. Box 10 03 47, W–6000 Frankfurt am Main 1, Germany

BANK SEPAH (Branch), 5/7 Eastcheap, EC3M 1JT London, England

BANK SEPAH (Representative Office), 650 Fifth Avenue, New York, New York 10019, U.S.A

BANK SEPAH (Branch), 17 Place Vendome, 75001 Paris, France.

BANK SEPAH (Branch), Via Barberini 50, 00187 Rome, Italy

BANK SEPAH (Representative Office), Ufficio di Rappresentan Za, Via Ugo Foscolo 1, 20121 Milan, Italy

BANK TAAVON KESHAVARZI IRAN (a.k.a. AGRICULTURAL COOPERATIVE BANK OF IRAN) No. 129 Patrice Lumumba Street, Jalal-Al-Ahmad Expressway, P.O. Box 14155/6395, Tehran, Iran

BANK TEJARAT, 130 Taleghani Avenue, Nejatoullahie, P.O. Box 11365–5416, Tehran, Iran, and all offices worldwide, including, but not limited to:

BANK TEJARAT (Branch), 6/8 Clements Lane, London EC4N 7AP,England

BANK TEJARAT (Branch), 44 Avenue des Champs Elysees, 75008 Paris, France

DEUTSCH-IRANISCHE HANDELSBANK AG (n.k.a. EUROPAEISCH-IRANISCHE HANDELSBANK AG) Depenau 2, W–2000 Hamburg 1, Germany, and all offices worldwide, including, but not limited to:

DEUTSCH-IRANISCHE HANDELSBANK AG (n.k.a. EUROPAEISCH-IRANISCHE HANDELSBANK AG) (Representative Office), 23 Argentine Square, Beihaghi Bulvard, P.O. Box 15815/1787, Tehran 15148, Iran

EUROPAEISCH-IRANISCHE HANDELSBANK AG (f.k.a. DEUTSCH-IRANISCHE HANDELSBANK AG) Depenau 2, W–2000 Hamburg 1, Germany, and all offices worldwide, including, but not limited to:

EUROPAEISCH-IRANISCHE HANDELSBANK AG (f.k.a. DEUTSCH-IRANISCHE HANDELSBANK AG) (Representative Office), 23 Argentine Square, Beihaghi Bulvard, P.O. Box 15815/1787, Tehran 15148, Iran

HOUSING BANK (of Iran) (a.k.a. BANK MASKAN), Ferdowsi St., Tehran, Iran

IRAN OVERSEAS INVESTMENT BANK LIMITED (f.k.a. IRAN OVERSEAS INVESTMENT CORPORATION LIMITED), 120 Moorgate, London EC2M 6TS, England, and all offices worldwide, including, but not limited to:

IRAN OVERSEAS INVESTMENT BANK LIMITED (Representative Office), 1137 Avenue Vali Asr off Park-e-SAll, P.O. Box 15115/531, Tehran, Iran

IRAN OVERSEAS INVESTMENT BANK LIMITED (Agency), Suite 3c Olympia House, 61/63 Dame Street, Dublin 2, Ireland

IRAN OVERSEAS INVESTMENT BANK LIMITED (Agency), Improgetti, Via Germanico 24, 00192 Rome, Italy

IRAN OVERSEAS TRADING COMPANY LIMITED (Subsidiary), 120 Moorgate, London EC2M 6TS, England

IRAN OVERSEAS INVESTMENT CORPORATION LIMITED (n.k.a. IRAN OVERSEAS INVESTMENT BANK LIMITED), 120 Moorgate, London EC2M 6TS, England

THE CENTRAL BANK OF IRAN (a.k.a. BANK MARKAZI JOMHOURI ISLAMI IRAN), Ferdowsi Avenue, P.O. Box 11365–8551, Tehran, Iran

WORKERS WELFARE BANK (of Iran) (a.k.a. BANK REFAH KARGARAN), Moffettah No. 125, P.O. Box 15815 1866, Tehran, Iran

IRANIAN ASSETS CONTROL REGULATIONS—31 C.F.R PART 535

Separate Iranian sanctions regulations appear at 31 C.F.R. Part 535. On November 14, 1979, the assets of the Government of Iran in the United States were blocked in accordance with IEEPA, following the seizure of the American Embassy in Teheran and the taking of U.S. diplomats as hostages. Under the Iranian Assets Control Regulations (Title 31 Part 535 of the U.S. Code of Federal Regulations), some US$12 billion in Iranian Government bank deposits, gold, and other properties were frozen, including $5.6 billion in deposits and securities held by overseas branches of U.S. banks. The assets freeze was eventually expanded to a full trade embargo, which remained in effect until the Algiers Accords were signed with Iran on January 19, 1981. Pursuant to the Accords, most Iranian assets in the United States were unblocked and the trade embargo was lifted. The U.S. Government also canceled any attachments that U.S. parties had secured against Iranian assets in the United States, so that the assets could be returned to Iran or transferred to escrow accounts in third countries pursuant to the Accords. This action was upheld by the Supreme Court in 1981 in Dames & Moore v. Regan. Although greatly modified in scope, the old Iranian Assets Control Regulations remain in effect. Many U.S. nationals have claims against Iran or Iranian entities for products shipped or services rendered before the onset of the 1979 embargo or for losses sustained in Iran due to expropriation during that time. These claims are still being litigated in the Iran-United States Claims Tribunal at The Hague established under the Algiers Accords. Certain assets related to these claims remain blocked in the United States and consist mainly of military and dual-use property.

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This document is explanatory only and does not have the force of law. The Executive Orders and implementing regulations dealing with Iran contain the legally binding provisions governing the sanctions. This document does not supplement or modify those Executive Orders or regulations.

The Treasury Department's Office of Foreign Assets Control also administers sanctions programs involving Libya, Iraq, the Federal Republic of Yugoslavia, theRepublic of Serbia, Cuba, the National Union for the Total Independence of Angola (UNITA), the Taliban in Afghanistan, North Korea, Syria, Sudan, international terrorists, Foreign Terrorist Organizations, international narcotics traffickers, and designated foreign persons who have engaged in activities related to the proliferation of weapons of mass destruction. For additional information about these programs or about the Iranian sanctions programs, please contact the:

OFFICE OF FOREIGN ASSETS CONTROL
U.S. Department of the Treasury
Washington, D.C. 20220
202/622–2520
http://www.treas.gov/ofac

[07–27–99]

(4) Iraq: What You Need to Know about the U.S. Embargo

An overview of the Iraqi Sanctions Regulations—Title 31 Part 575 of the U.S. Code of Federal Regulations

INTRODUCTION

On August 2, 1990, upon Iraq's invasion of Kuwait, former President Bush issued Executive Order No. 12722 declaring a national emergency with respect to Iraq. The order, issued under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701), the National Emergencies Act (50 U.S.C. 1601), and section 301 of title 3 of the U.S. Code, imposed economic sanctions, including a complete trade embargo, against Iraq. In keeping with United Nations Security Council Resolution 661 of August 6, 1990 and the United Nations Participation Act (22 U.S.C. 287c), the President also issued Executive Order 12724 on August 9, 1990, which imposed additional restrictions. Similar sanctions were imposed on Kuwait to ensure that no benefit from the United States flowed to the Government of Iraq in military-occupied Kuwait. The Iraqi Sanctions Regulations implement Executive Orders No. 12722 and 12724. They were issued and are administered by the Treasury Department's Office of Foreign Assets Control (FAC). The summary which follows is intended as a broad overview of the Regulations.

Criminal penalties for violating the Iraqi Sanctions Regulations range up to 12 years in jail and $1,000,000 in fines. In addition, civil penalties of up to $275,000 per violation may be imposed administratively.

ASSETS BLOCKED

Effective August 2, 1990, the President blocked all property and interests in property of the Government of Iraq, its agencies, instrumentalities, and controlled entities, in the United States or within the possession or control of U.S. persons. Persons and organizations determined by the Secretary of the Treasury to fall within any of those categories are subject to treatment as if they were the government of Iraq itself. This enables Treasury to designate Iraqi "front" organizations that may be operating in third countries as "Specially Designated Nationals of Iraq," thus subjecting them to the Iraqi sanctions. Blocked accounts in U.S. financial institutions must earn interest at commercially reasonable rates; funds are not to be held in instruments with a maturity exceeding 90 days. Setoffs against blocked accounts are prohibited.

The following activities are prohibited, unless licensed by the Office of Foreign Assets Control:

BUYING FROM IRAQ

Except as provided for under UNSC Resolution 986 (see below) goods or services cannot be imported into the United States either

directly or through third countries. Any activity that promotes or is intended to promote such importation is prohibited.

SELLING TO IRAQ

Goods, technology or services cannot be exported from the United States, or, if subject to U.S. jurisdiction, exported or reexported from a third country, to Iraq (notwithstanding authorization from another government agency) with the exception of OFAC-licensed food, medical supplies intended to relieve human suffering and certain other humanitarian goods. In no circumstances has the use of blocked funds been authorized for humanitarian sales. Any activity that promotes or is intended to promote a prohibited exportation or reexportation, or the transshipment of goods, services, or technology subject to U.S. jurisdiction through a third country, is also prohibited.

An exporter who shipped merchandise to Iraq prior to August 2, 1990 and who is the beneficiary of a letter of credit, issued or confirmed by a U.S. bank, or a letter of credit involving a reimbursement confirmed by a U.S. bank may apply to OFAC for a specific license authorizing payment under the letter of credit. A specific license authorizing payment under such a letter of credit will only be issued for a delivery to Iraq which occurred after August 2 if the exporter made a good faith effort to divert the delivery.

OFFSHORE TRANSACTIONS

Generally, U.S. persons are prohibited from dealing in Iraqi-origin goods or in any other goods exported from Iraq to any country after August 6, 1990. U.S. persons are also prohibited from dealing in property intended for exportation to Iraq from any country.

Performance of contracts in support of industrial, commercial, public utility or governmental projects in Iraq is also generally prohibited. Provisions prohibiting performance are very broadly construed to prohibit any financial, sales, or service contract that will have an impact on projects in Iraq. U.S. persons may not, for example, provide financing or consulting services to a third-country company, where those services would inure to the benefit of a project in Iraq. Banks need to be very careful that their foreign corporate accounts are not used in connection with Iraqi projects or commercial activities.

While foreign subsidiaries of U.S. firms are not subject to the Regulations, U.S. parent corporations and all U.S. citizens or residents, wherever located, are strictly prohibited from approving or providing financial assistance, advice, consulting services, goods, or any other support to subsidiaries in connection with Iraqi projects.

UNSC RESOLUTION 986

On April 14, 1995, the United Nations Security Council adopted Resolution 986 ("UNSCR 986") which, subject to certain conditions, established a program to allow the Government of Iraq a six month window in which to sell $2 billion of petroleum and petroleum products, the proceeds of which would be used to purchase humanitarian supplies. Proceeds are to be deposited into a special account at Banque Nationale de Paris' New York branch which will be used

to fund the purchases. The Secretary General of the United Nations has now announced the implementation of the program and the Regulations have been amended accordingly.

U.S. persons are authorized to enter into executory contracts with the Government of Iraq relating to the following authorized transactions: the purchase and exportation from Iraq of Iraqi-origin petroleum and petroleum products; the trading, importation, exportation or other dealings in or related to Iraqi-origin petroleum and petroleum products outside Iraq; the sale and exportation to Iraq of parts and equipment that are essential for the safe operation of the Kirkuk-Yumurtalik pipeline system in Iraq; and the sale and exportation to Iraq of medicines, health supplies, foodstuffs, and materials and supplies for essential civilian needs.

All executory contracts must meet the following requirements: the executory contracts and all other related contracts must be consistant with the requirements of UNSCR 986, any other applicable UNSC Resolutions, memoranda, and any further guidance issued by the 661 Sanctions Committee and executory contracts involving any transactions subject to license application requirements by another Federal agency must be contingent upon prior authorization of such agency. Actual performance under any executory contract requires the issuance of a separate specific license by OFAC (see below). The authorization for executory contracts by U.S. persons includes contracts with third parties incidental to permissible executory contracts with the Government of Iraq.

Section 575.523 of the Regulations now provides a statement of licensing policy for U.S. persons seeking to purchase petroleum and petroleum products from the Government of Iraq or Iraq's State Oil Marketing Organization ("SOMO") pursuant to UNSCR 986. A specific license must be issued by OFAC to authorize a licensee to deal directly with the United Nations 661 Committee or its designee (the "overseers") appointed by the UN Secretary-General. Applications for specific licenses from OFAC must include the following information: (1) applicant's full legal name; (2) applicant's mailing and street addresses; (3) name of the individual(s) responsible for the license application and related commercial transactions and the individual's telephone and facsimile numbers; (4) if the applicant is a business entity, the state or jurisdiction of incorporation and principal place of business; (5) a written certification that the applicant has entered into an executory contract for the purchase of Iraqi-origin petroleum or petroleum products with the Government of Iraq, that the contract accords with normal arms-length commercial practice, and that the applicant is familiar with the Regulations, particularly Sections 575.601 and 575.602, and will make its executory contract and other documents related to the purchase of Iraqi-origin petroleum or petroleum products available to OFAC; and (6) a written certification that the applicant understands that issuance of a license does not authorize a licensee to provide goods, services, or compensation of any kind to the Government of Iraq other than that specifically provided in contracts entered into by the applicant and the Government of Iraq and submitted to and approved by the UN 661 Committee or its designee. Following the issuance of a specific license OFAC will coordinate with the U.S. State Department the provision of a list of licensed "national oil

purchasers" to the UN 661 Committee. OFAC licensees whose contracts are ultimately approved by UN overseers will be permitted to perform those contracts in accordance with their terms. Section 575.526 of the Regulations provides a general license for dealing in, and importation into the United States of, Iraqi-origin petroleum and petroleum products, the purchase and exportation of which have been authorized in accordance with UNSCR 986.

Section 575.524 of the Regulations provides a statement of licensing policy for the exportation to Iraq of pipeline parts and equipment necessary for the safe operation of the Iraqi portion of the Kirkuk-Yumurtalik pipeline system. Applications for such specific licenses must be made to OFAC in advance of the proposed sale and exportation and provide the following information: (1) identification of the applicant, including full legal name, mailing and street addresses, the name of the individual(s) responsible for the application and related commercial transactions and the individual's telephone and facsimile numbers, and, if the applicant is a business entity, the state or jurisdiction of incorporation and principal place of business; (2) the name and address of all parties involved in the transactions and their role, including financial institutions and any Iraqi broker, purchasing agent, or other participant in the purchase of the pipeline parts or equipment; (3) the nature, quantity, value and intended use of the pipeline parts and equipment; (4) the intended point(s) of entry into Iraq, proposed dates of entry and delivery, and the final destination in Iraq of the pipeline parts and equipment; (5) a copy of the concluded contract with the Government of Iraq and other relevant documentation, all of which must comply with the provisions of UNSC Resolution 986, other applicable Security Council resolutions, the Memorandum of Understanding, and applicable guidance issued by the 661 Committee; and (6) a statement that the applicant is familiar with the requirements of the above-referenced documents, particularly Memorandum of Understanding paragraph 24 and Guidelines paragraphs 35 and 45, and will conform the letter of credit and related financing documents to their terms.

Section 575.525 of the Regulations provides a statement of licensing policy for the sale of humanitarian items to Iraq. Applications for specific licenses must be made to OFAC in advance of the proposed sale and exportation and provide the following information: (1) identification of the applicant, including full legal name, mailing and street addresses, the name of the individual(s) responsible for the application and related commercial transactions and the individual's telephone and facsimile numbers, and, if the applicant is a business entity, the state or jurisdiction of incorporation and principal place of business; (2) the name and address of all parties involved in the transactions and their role, including financial institutions and any Iraqi broker, purchasing agent, or other participant in the purchase of the humanitarian aid; (3) the nature, quantity, value and the intended use of the humanitarian aid; (4) the intended point(s) of entry into Iraq, proposed dates of entry and delivery, and the final destination in Iraq of the humanitarian aid; (5) a copy of the concluded contract with the Government of Iraq or the United Nations Inter-Agency Humanitarian Programme and other relevant documentation, all of which must comply with the

provisions of UNSCR 986, other applicable Security Council resolutions, the Memorandum of Understanding, and applicable guidance issued by the 661 Committee; and (6) a statement that the applicant is familiar with the requirements of UNSCR 986, other applicable Security Council resolutions, the Memorandum of Understanding, and applicable guidance issued by the 661 Committee, particularly Memorandum of Understanding paragraph 24 and Guidelines paragraphs 35 and 45, and will conform the letter of credit and related financing documents to their terms.

Transactions related to travel to Iraq or activities within Iraq by U.S. persons are not authorized by the Regulations nor are debits to blocked accounts or direct financial transactions with the Government of Iraq. U.S. persons may, however, enlist and pay the expenses of non-U.S. nationals to travel to Iraq on their behalf for the purpose of assisting in obtaining an executory contract under UNSCR 986. Banking transfers into Iraq to persons in Iraq continue to be prohibited by Section 575.210 of the Regulations.

TRAVEL

All transportation-related transactions and services, or the use by U.S. persons of vessels or aircraft registered in Iraq, are prohibited. All travel-related transactions by U.S. persons are also prohibited, with narrow exceptions related to journalistic activity, official U.S. Government or United Nations business, reimbursement for the UNSCR 986 activities referenced above, or one's own departure from Iraq.

FINANCIAL

All transfers of funds by U.S. persons to the Government of Iraq or to persons in Iraq are prohibited, as are all commitments or transfers of credit, financial transactions, or contracts. Banks may not execute transfer instructions involving sending money to persons in Iraq, except as licensed, and must block any funds coming into their possession in which there is an interest of the Government of Iraq, including Specially Designated Nationals of Iraq or Iraqi financial institutions located anywhere in the world. "Suspense accounts" are not permitted. If banks receive instructions to transfer funds involving an interest of the Government of Iraq, they must block them on their own books.

Among other items, the Regulations provide the following guidance:

STANDBY LETTERS OF CREDIT

A number of companies were required to open bid, performance, or warranty bonds in the form of standby letters of credit to do business in or with Iraq before the Iraqi invasion of Kuwait. Special procedures have been established with regard to payment demands under standby letters of credit in favor of Iraq. Banks must "give prompt notice" to the party who opened the letter of credit (the account party) when there is an attempted drawing. The account party then has five days to apply to the Office of Foreign Assets Control for a specific license to prevent "payment" of the letter of credit into a blocked account. A bank may not make any pay-

ment, even into a blocked account, on behalf of an Iraqi beneficiary unless the account party fails to secure a Treasury Department license within 10 business days of notification from the bank. If the account party receives a license from the Treasury Department, the original of the license should be presented to the bank and a special blocked reserve account must be established on the account party's corporate ledger to reflect its outstanding obligation to Iraq in lieu of the bank "paying" the letter of credit. The account party must certify to the Treasury Department that it has established the blocked reserve account. Nothing in this procedure precludes the account party or any other person from at any time contesting the legality of the demand from the beneficiary or raising any other legal defense to payment. Moreover, the issuing bank must continue to maintain the letter of credit as a contingent liability on its own books, despite any reserve account established by the account party. The obligations of the various parties under the letter of credit remain in effect as long as the Iraqi assets are blocked. They may be reevaluated and renegotiated to the extent permitted by law once the assets have been unblocked.

SPECIAL REPORTS

All parties engaging in transactions involving Iraq must keep accurate and comprehensive records. The Office of Foreign Assets Control may require reports on such activities at any time. The Treasury Department has required the filing of special census data on claims by U.S. nationals against Iraq (TDF 90–22.41) and on blocked Iraqi government property (TDF 90–22.40).

If you have information regarding possible violations of any of these regulations, please call the Treasury Department's Office of Foreign Assets Control at 202/622–2430. Your call will be handled confidentially.

This document is explanatory only and does not have the force of law. The Executive Orders and implementing regulations dealing with Iraq contain the legally binding provisions governing the sanctions and this document does not supplement or modify those Executive Orders or regulations.

The Office of Foreign Assets Control also administers sanctions programs involving Libya, The Federal Republic of Yugoslavia (Serbia and Montenegro) and Serb-Controlled Bosnia, Cuba, North Korea, the National Union for the Total Independence of Angola (UNITA), Iran, Syria, Sudan, Burma (Myanmar), designated international terrorists and narcotics traffickers, Foreign Terrorist Organizations, and designated foreign persons who have engaged in activities relating to the proliferation of weapons of mass destruction. For additional information about these programs or about the Iraqi sanctions program, please contact the:

OFFICE OF FOREIGN ASSETS CONTROL
U.S. Department of the Treasury
Washington, D.C. 20220
202/622–2520

(02–23–99)

(5) Libya: What You Need to Know about the U.S. Embargo

An overview of the Libyan Sanctions Regulations—Title 31 Part 550 of the U.S. Code of Federal Regulations

INTRODUCTION

The Libyan Sanctions Regulations, authorized under the International Emergency Economic Powers Act and the International Security and Development Cooperation Act of 1985, established economic sanctions against Libya in January 1986. Citing terrorist attacks against the Rome and Vienna airports in December 1985, former President Reagan emphasized that he had authorized the sanctions in response to Libya's repeated use and support of terrorism against the United States, other countries, and innocent persons. The Regulations are still in force and affect all U.S. citizens and permanent residents wherever they are located, all people and organizations physically in the United States, and all branches of U.S. organizations throughout the world. They are administered by the U.S. Treasury Department's Office of Foreign Assets Control.

Criminal penalties for violating the sanctions range up to 10 years in prison, $500,000 in corporate and $250,000 in individual fines. In addition, civil penalties of up to $11,000 per violation may be imposed administratively.

This fact sheet is a broad overview of the Libyan Sanctions Regulations.

BUYING FROM LIBYA

Goods or services of Libyan origin may not be imported into the United States either directly or through third countries. There are two exceptions: (1) Libyan merchandise up to $100 in value in noncommercial quantities may be brought into the United States either for strictly personal use as accompanied baggage by an authorized traveler or sent as a gift to a person in the United States and (2) qualifying informational material may be imported without restriction.

SELLING TO LIBYA

Except for informational materials, such as books, magazines, films, and recordings and donated articles such as food, clothing, medicine, and medical supplies intended to relieve human suffering, and the licensed export of agricultural commodities and products, medicine and medical equipment, no goods, technology, or services may be exported from the United States to Libya, either directly or through third countries. No U.S. bank or foreign branch of a U.S. bank may finance, or arrange offshore financing for, third-country trade transactions where Libya is known to have an interest in the trade as its ultimate beneficiary. The U.S. Treasury De-

partment takes the view that arranging transactions which ultimately benefit Libya (for example, brokering third-country sales of Libyan crude oil or transportation for Libyan cargo) constitutes an exportation of brokerage services to Libya and a dealing in Libyan governmental property in violation of the Regulations. Banks should be careful, for example, not to become involved in transactions relating to shipments to or from South Korea involving ultimate delivery of merchandise to the Great Man-Made River Project in Libya. The only areas of trade that may involve Libya and still be permissible are: (1) the sale of parts and components to third countries, where the U.S. goods will be "substantially transformed" into new and different articles of commerce prior to shipment to Libya, and (2) the sale of goods which come to rest in the inventory of a third-country distributor whose sales are not predominantly to Libya. Even the first of those exceptions is not available if the finished product of the third country is destined for use in any aspect of the Libyan petroleum or petrochemical industries.

SPECIALLY DESIGNATED NATIONALS

Individuals or organizations who act on behalf of the Government of Libya anywhere in the world are considered by the U.S. Treasury Department to be "Specially Designated Nationals" of Libya. Their names are published in the Federal Register, an official publication of the U.S. Government. A listing of such Specially Designated Nationals may be obtained by calling the Office of Foreign Assets Control at 202/622–2420. The listing, however, is a partial one and any U.S. individual or organization engaging in transactions with foreign nationals must take reasonable care to make certain that such foreign nationals are not acting on behalf of Libya. The list includes certain banks domiciled in Europe and Africa as well as the names of individuals who are officers and directors of substantial international corporations. U.S. individuals or organizations who violate the Regulations by transacting business with Specially Designated Nationals of Libya may be subject to civil or criminal prosecution.

LIBYAN GOVERNMENT ASSETS BLOCKED

On January 8, 1986, the President blocked all Government of Libya assets in the United States or in the possession or control of U.S. persons anywhere in the world. This action prohibits all transfers of Libyan governmental assets without a specific license from the Office of Foreign Assets Control. All contracts, loans, and financial dealings with Libya are prohibited. The freeze covers all properties of the Libyan Government, and of entities owned or controlled by it, including all Libyan-organized and Libyan-owned or controlled banks (all banks in Libya are considered Government-controlled) and includes deposits held in banks in the United States and in U.S. banks' overseas branches. The prohibition against any transfer of property or interest in the property of Libya includes property that is now or in the future is located in the United States or is in or comes into the possession or control of U.S. persons. Any unlicensed funds transfer involving a direct or indirect interest of the Government of Libya (including any transfer routed through or to Libyan banks which are all considered

Specially Designated Nationals of Libya), for which banks subject to U.S. jurisdiction receive instructions, must be deposited into a blocked account on the books of the bank receiving the instructions. Such funds may not be returned to a remitter without a specific license from the Office of Foreign Assets Control. No unlicensed debits may be made to blocked Libyan accounts to pay obligations of U.S. or other persons, whether the obligations arose before or after the sanctions against Libya were imposed. Even payments from blocked accounts for goods, services, or technology exported prior to the sanctions program are prohibited.

FINANCIAL DEALINGS WITH LIBYA

Financial transactions, including trade financing, are generally prohibited. Payments for and financing of licensed sales of agricultural commodities and products, medicine and medical equipment may be accomplished by cash in advance, sales on open account (provided the account receivable is not transferred by the person extending the credit), or by third country financial institutions that are neither U.S. persons nor government of Libya entities. Any other arrangements must be specifically authorized by OFAC. U.S. banks may adise and confirm letters of credit issued by third country banks covering licensed sales.

Payments for licensed sales of agricultural commodities and products, medicine and medical equipment, which must reference an appropriate OFAC license, may not involve a debit to a blocked account on the books of a U.S. depository institution. Before a U.S. bank initiates a payment, or credits its customer for a licensed transaction, it must determine that the transfer is authorized.

CONTRACTS BENEFITING LIBYA

No U.S. person may perform any contract in support of an industrial or other commercial or governmental project in Libya. The prohibition includes sales or service agreements with non-Libyan persons located anywhere in the world, if it is known that Libya or a Libyan project will benefit from the transaction. Banks subject to U.S. jurisdiction must exercise extreme caution not to operate accounts for even non-U.S. companies which use those accounts for transactions connected with Libyan projects or commercial activities. Any such accounts must be blocked under U.S. law.

TRANSACTIONS INVOLVING U.S. SUBSIDIARIES

Independent transactions with Libya by foreign subsidiaries of U.S. firms are permitted if no U.S. person or permanent resident has a role. It should be emphasized that the facilitating actions of the U.S. parent, or of U.S. citizens (wherever resident) who manage or work for the subsidiary, are fully subject to the prohibitions of the Regulations.

STANDBY LETTERS OF CREDIT

A number of companies were required to open bid, performance, advance payment, or warranty bonds in the form of standby letters of credit to do business with Libya before the Libyan sanctions were imposed. Special procedures have been established with re-

gard to payment demands under standby letters of credit in favor of Libya. Banks must "give prompt notice" to the party who opened the letter of credit (the account party) when there is an attempted drawing. The account party then has five days to apply to the Office of Foreign Assets Control for a specific license to prevent "payment" of the letter of credit into a blocked account. A bank may not make any payment, even into a blocked account, on behalf of a Libyan beneficiary unless the account party fails to secure a Treasury license within 10 business days of notification from the bank. If the account party receives a license from the Treasury Department, the original of the license should be presented to the bank and a special blocked reserve account must be established on the account party's corporate books to reflect its outstanding obligation to Libya in lieu of the bank "paying" the letter of credit. The account party must certify to the Treasury Department that it has established the blocked reserve account. Neither the bank nor the account party are relieved from giving any notice of defense against payment or reimbursement that is required by applicable law. Moreover, the issuing bank must continue to maintain the letter of credit as a contingent liability on its own books, despite any reserve account established by the account party and, in the event the embargo is lifted, both the bank and the account party will be expected to negotiate concerning their outstanding obligation.

TRAVEL TO LIBYA

All transportation-related transactions involving Libya by U.S. persons are prohibited, including the sale in the United States of any transportation by air which includes any stop in Libya. All travel-related transactions are prohibited for U.S. citizens or residents with regard to Libya, except for (1) travel by close family members of Libyan nationals when the U.S. citizen or resident has registered with Treasury's Office of Foreign Assets Control or with the Embassy of Belgium in Tripoli, or (2) travel by journalists regularly employed in such capacity by a newsgathering organization, or (3) travel transactions for the sole purpose of negotiating executory contracts in connection with licensed sales or agricultural commodities and products, medicine, and medical equipment. Travel transactions related to the installation or servicing of medical equipment exported pursuant to OFAC license may be authorized by specific license.

If you have information regarding possible violations of any of these regulations, please call the Treasury Department's Office of Foreign Assets Control at 202/622–2430. Your call will be handled confidentially.

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This document is explanatory only and does not have the force of law. The Executive Orders and implementing regulations relating to Libya contain the legally binding provisions governing the sanctions and this document does not supplement or modify those Executive Orders or regulations.

The Office also administers sanctions programs involving Iraq, the Federal Republic of Yugoslavia, the Republic of Serbia, North Korea, Cuba, the National Union for the Total Independence of An-

gola (UNITA), the Taliban in Afghanistan, Iran, Syria, Sudan, Burma (Myanmar), designated international terrorists and narcotics trafickers, Foreign Terrorist Organizations, and designated foreign persons who have engaged in activities related to the proliferation of weapons of mass destruction. For additional information about these programs or about the Libyan sanctions programs, please contact the:

OFFICE OF FOREIGN ASSETS CONTROL
U.S. Department of the Treasury
Washington, D.C. 20220
202/622–2520

http://www.treas.gov/ofac

(07–27–99)

(6) North Korea: What You Need to Know about the U.S. Embargo

An overview of the Foreign Assets Control Regulations as they relate to North Korea—Title 31 Part 500 of the U.S. Code of Federal Regulations

INTRODUCTION

The Foreign Assets Control Regulations, authorized under the Trading with the Enemy Act, established economic sanctions against the Democratic People's Republic of Korea ("North Korea") in 1950. Although recently modified as a result of commitments made to begin normalization of relations, the Regulations are still in force and affect all U.S. citizens and permanent residents wherever they are located, all people and organizations physically in the United States, and all branches, subsidiaries and controlled affiliates of U.S. organizations throughout the world. They are administered by the U.S. Treasury Department's Office of Foreign Assets Control. Penalties for violating the sanctions range up to 10 years in prison, $1,000,000 in corporate fines, and $250,000 in individual fines.

This fact sheet is a broad summary of the Regulations for all individuals intending to travel to or otherwise deal with North Korea.

SELLING TO NORTH KOREA

Except for information and informational materials, such as books, magazines, films, compact disks, CD ROMs, artworks, news wire feeds and recordings. U.S. products, technology or services generally may not be exported to North Korea, either directly or through third countries, unless licensed by the Bureau of Export Administration of the U.S. Department of Commerce. This prohibition includes dealing in or assisting the sale of goods or commodities to or from North Korea, since such brokering is considered to be the export of a service. Exports of commercially-supplied goods to meet basic human needs may be authorized under individual validated licenses by the U.S. Commerce Department on a case-by-case basis.

Licenses are also granted to U.S. persons by the U.S. Treasury Department to enable them to participate in transactions that further North Korea's transition to light-water reactor ("LWR") power plants. Such projects include LWR power plant design, site preparation, excavation, delivery of essential nonnuclear components (including turbines and generators), building construction, the disposition of spent nuclear fuel and the provision of heavy oil for heating and electricity generation pending completion of the first LWR unit. For information regarding licensing criteria, please contact the Licensing Division of the Office of Foreign Assets Control at 202/622–2480.

BUYING FROM NORTH KOREA

Goods or services of North Korean origin generally may not be imported into the United States either directly or through third countries, without authorization from the Office of Foreign Assets Control. The only exceptions are non-commercial quantities of North Korean merchandise up to $100 in value, which may be brought into the United States for strictly personal use as accompanied baggage by a person traveling to North Korea and informational materials, which may be imported without limitation. Receipts should be kept to document any goods purchased in North Korea and those receipts should be made available to U.S. Customs when entry is made into the United States.

Specific licenses may be issued by the Office of Foreign Assets Control to allow the importation into the United States of North Korean-origin Magnesite or magnesia. For further information regarding licensing criteria, please contact the Licensing Division of the Office of Foreign Assets Control at 202/622–2480.

SPECIALLY DESIGNATED NATIONALS

The Regulations prohibit buying from or selling to North Korean nationals whether they are physically located in North Korea or doing business elsewhere. Individuals or organizations who act for or on behalf of North Korea anywhere in the world are considered by the U.S. Treasury Department to be "Specially Designated Nationals" of North Korea. Their names are published in the Federal Register, an official publication of the U.S. Government. A listing of such Specially Designated Nationals may be obtained by calling the Office of Foreign Assets Control at 202/622–2420. The listing, however, is a partial one and any U.S. individual or organization engaging in transactions with foreign nationals must take reasonable care to make certain that such foreign nationals are not acting for or on behalf of North Korea. Specially Designated Nationals of North Korea operating in the United States are subject to criminal prosecution and U.S. individuals or organizations who violate the Regulations by transacting business with them are also subject to criminal prosecution.

SENDING GIFTS

Gift parcels may only be shipped or carried to an individual, or to a religious, charitable, or educational organization in North Korea for the use of the recipient or of the recipient's immediate family, subject to the following limitations: the combined total domestic retail value of all the items in the parcel must not exceed $400; not more than one parcel may be sent or given by the same person in the U.S. to the same recipient in North Korea in any month; and only items normally sent as gifts, such as food, clothing, toilet articles, or medicine, may be included in the gift parcel. Gold coins and gold bullion are not eligible for gift parcel treatment. Organizations that consolidate and send multiple gift parcels in single shipments must obtain a validated license from the U.S. Department of Commerce. Each gift parcel must meet commodity, dollar-value, and frequency limitations. If a parcel being shipped or carried to North Korea fails to meet these standards, the parcel,

and any parcel in a consolidated shipment with it, are subject to seizure by the U.S. Government.

TRAVELING TO NORTH KOREA

U.S. passports are valid for travel to North Korea and individuals do not need U.S. Government permission to travel there. All transactions ordinarily incident to travel to, from and within North Korea and to maintenance within North Korea are authorized. U.S. travel service providers are authorized to organize group travel to North Korea, including transactions with North Korean carriers. However, individuals may only spend money in North Korea to purchase items related to travel, such as hotel accommodations, meals, and goods for personal consumption by the traveler in North Korea. There is no longer any per diem restriction on these expenses, and the use of credit cards for these transactions is also authorized. A traveler returning from North Korea may bring back into the United States as accompanied baggage $100 worth of merchandise in non-commercial quantities, as well as informational materials without limitation. Because the sanctions program prohibits business dealings with North Korea unless licensed by the U.S. Treasury Department, purchases of other goods or services unrelated to travel are prohibited. At the present time, individuals who wish to travel to North Korea must obtain North Korean entry visas in third countries. Travelers should consult the U.S. State Department for any special travel advisories.

ACCOUNTS AND ASSETS

As a general rule, no U.S. person may have any dealings in North Korean assets, either governmental or private; nor may they have any financial dealings with North Korea, except for financial transactions incident to authorized activities, such as travel-related transactions and licensed trade. All property of North Korea, of North Korean nationals, and of Specially Designated Nationals of North Korea controlled by or in the possession of persons subject to U.S. jurisdiction is "blocked."

U.S. financial institutions may now rely on originators or beneficiaries of funds transfers with regard to compliance with the sanctions against North Korea and are authorized by general license to process the post-February 14, 1995 transfer of funds in which North Korea or a national thereof has an interest. Persons subject to U.S. jurisdiction who are originators or ultimate beneficiaries of such funds transfers, however, including U.S. banking institutions that are themselves originators or beneficiaries, may not initiate or receive such transfers if the underlying transactions to which they relate are prohibited.

Specific licenses may be issued on a case-by-case basis to authorize the unblocking of funds that were blocked by financial institutions pursuant to this part because of an interest of North Korea or a national thereof, that came into the financial institution's possession or control by wire transfer or check remittance prior to the effective date of the general license authorizing such activity. Such licenses will only authorize the return of funds to remitting parties, provided that no funds are released to the Government of North Korea, to any entity controlled by the Government, to any person

located in or controlled from North Korea, or to any entity organized under the laws of that country.

ESTATES AND INSURANCE POLICIES

An estate is blocked whenever a North Korean resident is an heir or is the deceased; money from a life insurance policy is blocked whenever the deceased or the beneficiary is a North Korean resident. It is possible for the heir of a person who died in North Korea, or the beneficiary of a life insurance policy of a person who died in North Korea, to apply for a license from the U.S. Treasury Department to unblock the estate or the insurance proceeds, provided the heir or beneficiary is not a North Korean national. Persons administering or interested in blocked estates or life insurance proceeds should contact the Licensing Division of the Office of Foreign Assets Control at 202/622–2480 to obtain further information concerning procedures for requesting a Treasury license.

DONATIONS OF FUNDS AND GOODS TO MEET BASIC HUMAN NEEDS

Donations of funds for the purpose of contributing to the provision of humanitarian assistance to victims of natural disasters in North Korea are authorized, provided that such donations may only be made through the United Nations, related UN programs and specialized agencies, the American Red Cross and the International Committee of the Red Cross. Transactions incident to the donation to North Korea from third countries of goods to meet basic human needs are also authorized.

OVERFLIGHT PAYMENTS

Effective April 7, 1997, a general license has been issued authorizing payments to North Korea for services rendered by the Government of North Korea in connection with overflights of North Korea or emergency landings in North Korea by aircraft registered in the United States or owned or controlled by persons subject to the jurisdiction of the United States. The publication date in the Federal Register is April 10, 1997.

CENSUS OF CLAIMS

The Regulations were amended on December 9, 1997 to require the reporting, no later than March 9, 1998, of all outstanding claims held by U.S. nationals against the Government of North Korea or any North Korean government entity.

This document is explanatory only and does not have the force of law. The Executive Orders and implementing regulations relating to North Korea contain the legally binding provisions governing the sanctions and this document does not supplement or modify those Executive Orders or regulations.

The Treasury Department's Office of Foreign Assets Control also administers sanctions programs involving Iraq, Libya, the Federal Republic of Yugoslavia (Serbia and Montenegro), Cuba, the National Union for the Total Independence of Angola (UNITA), Iran, Syria, Sudan, Burma (Myanmar), designated international terrorists and narcotics traffickers, Foreign Terrorist Organizations, and

designated foreign persons who have engaged in activities related to the proliferation of weapons of mass destruction. For additional information about these programs or about the North Korean sanctions program, please contact the:

OFFICE OF FOREIGN ASSETS CONTROL
U.S. Department of the Treasury
Washington, D.C. 20220

202/622–2520

(02–23–99)

(7) Sudan: What You Need to Know about the U.S. Embargo

An overview of the Sudanese Sanctions Regulations—Title 31 Part 538 of the U.S. Code of Federal Regulations

INTRODUCTION

On November 3, 1997, after finding that the policies and actions of the Government of Sudan, including continued support for international terrorism, ongoing efforts to destabilize neighboring governments, and the prevalence of human rights violations, including slavery and the denial of religious freedom, constituted an unusual and extraordinary threat to the national security and foreign policy of the United States, President Clinton issued Executive Order No. 13067, declaring a national emergency to deal with that threat. The order, issued under the authority of International Emergency Economic Powers Act (50 U.S.C. 1701–1706) ("IEEPA"), the National Emergencies Act (50 U.S.C. 1601 et seq.) and section 301 of title 3, United States Code, imposed a trade embargo against Sudan and a total asset freeze against the Government of Sudan. The Sudanese Sanctions Regulations, 31 C.F.R. Part 538 (the "Regulations") implement Executive Order No. 13067.

Criminal penalties for violating the Regulations range up to 10 years in jail, $500,000 in corporate, and $250,000 in individual fines. In addition, civil penalties of up to $11,000 per violation may be imposed administratively.

This fact sheet is a broad overview of the Regulations.

BUYING FROM SUDAN

Goods or services of Sudanese origin may not be imported into the United States either directly or through third countries without a license. Exceptions include: (1) Sudanese merchandise up to $100 in value in non-commercial quantities may be brought into the United States either for strictly personal use as accompanied baggage or sent as a gift to a person in the United States and (2) information or informational materials may be imported without restriction. All other imports of Sudanese origin must be authorized by the Office of Foreign Assets Control.

Importation into the United States from third countries of goods containing raw materials or components of Sudanese origin is not prohibited if those raw materials or components have been incorporated into manufactured products or otherwise substantially transformed in a third country.

SELLING TO SUDAN

Except for information or informational materials and donated articles intended to relieve human suffering, such as food, clothing and medicine, and the licensed export of agricultural commodities and products, medicine and medical equipment, no goods, tech-

nology, or services may be exported from the United States to Sudan, either directly or through third countries, without a license. Exportation of goods or technology from the United States to third countries is prohibited if the exporter knows, or has reason to know, that the goods or technology are intended for transshipment to Sudan. The exportation of goods or technology intended specifically for incorporation or substantial transformation into a third-country product is also prohibited if the particular product is to be used in Sudan, is being specifically manufactured to fill a Sudanese order, or if the manufacturer's sales of the particular product are predominantly to Sudan.

No U.S. bank, including its foreign branches, may finance, or arrange offshore financing for, third-country trade transactions where Sudan is known to be the ultimate destination of, or the Government of Sudan is the purchaser of, the goods. Arranging transactions which ultimately benefit Sudan (for example, brokering third-country sales to Sudan) constitutes an exportation of brokerage services to Sudan in violation of the Regulations. The Regulations also prohibit non-U.S. persons from unauthorized re-exportation of U.S. origin goods to Sudan.

SPECIALLY DESIGNATED NATIONALS

Individuals or organizations that are owned or controlled by, or act on behalf of, the Government of Sudan anywhere in the world may be named by the U.S. Treasury Department as "Specially Designated Nationals" ("SDNs") of Sudan. U.S. persons are prohibited from transacting business with these individuals and entities, and all of their property in the United States or in the possession or control of a U.S. person is blocked. Their names are published in the Federal Register, an official publication of the U.S. Government. A listing of such SDNs may be obtained by calling the Office of Foreign Assets Control ("OFAC") at 202/622–2490. The listing, however, is a partial one and any U.S. individual or organization engaging in transactions with foreign nationals must take reasonable care to make certain that such foreign nationals are not owned or controlled by or acting on behalf of Sudan. U.S. individuals or organizations who violate the Regulations by transacting business with Specially Designated Nationals may be subject to civil or criminal prosecution.

SUDANESE GOVERNMENT ASSETS BLOCKED

Effective November 4, 1997, all property and interests in property of the Government of Sudan, including its agencies, instrumentalities and controlled entities and SDNs, in the United States or in the possession or control of a U.S. person, including their overseas branches, are blocked. All transfers of such property must be authorized by the OFAC. Any unlicensed funds transfer involving a direct or indirect interest of the Government of Sudan (including any transfer routed to a Sudanese Government-controlled bank) for which banks subject to U.S. jurisdiction receive instructions must be deposited into a blocked account on the books of the bank receiving the instructions. Such funds may not be returned to a remitter without a specific license from the OFAC. No unlicensed debits may be made to blocked accounts to pay obligations of U.S.

or other persons, whether the obligations arose before or after the sanctions against Sudan were imposed. Setoffs against blocked accounts are prohibited.

FINANCIAL DEALINGS WITH SUDAN

Payments for and financing of licensed sales of agricultural commodities and products, medicine and medical equipment may be accomplished by cash in advance, sales on open account (provided the account receivable is not transferred by the person extending the credit), opr by third country financial institutions that are neither U.S. persons nor government of Sudan entities. U.S. banks may advise or confirm letters of credit issued by third country banks covering such licensed sales.

Payments for licensed sales of agriculural commodities and products, medicine and medical equipment, which must reference an appropriate OFAC license, may not involve a debit to a blocked account on the books of a U.S. depository institution. Before a U.S. bank initiates a payment, or credits its customer for a licensed transaction, it must determine that the transfer is authorized.

As a rule, all other financial dealings with Sudan are prohibited, including the performance by any U.S. person of any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in Sudan.

U.S. persons are authorized to send and receive personal remittances to and from Sudan, provided that such transfers are not processed through a bank owned or controlled by the Government of Sudan. Financing related to trade contracts involving Sudan which were in place prior to November 4, 1997, and for which underlying transactions were completed by December 4, 1997, may be completed in accordance with their terms, provided that no debits are made to a blocked account.

PROHIBITED FACILITATION

The Regulations prohibit the facilitation by a U.S. person of the direct or indirect exportation or reexportation of goods, technology or services to or from Sudan. Facilitation of a trade or financial transaction that could be lawfully engaged in directly by a U.S. person or from the United States is not prohibited. Likewise, performance of services of a purely clerical or reporting nature that does not further trade or financial transactions with Sudan or the Government of Sudan will not violate the prohibition on exportation of services to Sudan.

NON-GOVERNMENTAL ORGANIZATIONS

Registration numbers may be issued by OFAC on a case-by-case basis to nongovernmental organizations ("NGOs") involved in humanitarian or religious activities in Sudan. This registration number will enable the NGO to continue authorized operations in Sudan. Applications for registration must include the name and address of the NGO's headquarters; the name, title, and telephone number of a person to be contacted in connection with the registration; the NGO's local address in Sudan and name, if different; and a detailed description of its humanitarian or religious activities and

projects in Sudan. Registrants conducting transactions for their Sudanese operations should reference their registration number on all funds transfer, purchase, shipping, and financing documents.

If you have information regarding possible violations of any of these regulations, please call the Treasury Department's Office of Foreign Assets Control at 202/622–2430. Your call will be handled confidentially.

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This document is explanatory only and does not have the force of law. Executive Order 13067 and implementing regulations and directives contain the legally binding provisions governing the sanctions against Sudan. This document does not supplement or modify Executive Order 13067 or implementing regulations and directives.

The Office also administers sanctions programs involving Iraq, the Federal Republic of Yugoslavia (Serbia and Montengro), North Korea, Cuba, the National Union for the Total Independence of Angola (UNITA), the Taliban in Afghanistan, Iran, Syria, Libya, Burma (Myanmar), designated Terrorists and Foreign Terrorist Organizations, international Narcotics Traffickers, and designated foreign persons who have engaged in activities related to the proliferation of weapons of mass destruction. For additional information about these programs or about the Sudanese Sanctions Regulations, please contact the:

OFFICE OF FOREIGN ASSETS CONTROL
U.S. Department of the Treasury
Washington, D.C. 20220
202/622–2520

http://www.treas.gov/ofac

(07–27–99)

(8) Taliban: What You Need to Know about the U.S. Embargo

An overview of U.S. Sanctions against the Taliban (in Afghanistan)

President Clinton has issued the following Executive Order imposing an asset freeze and trade embargo against the Taliban in Afghanistan effective 12:01 a.m. Eastern Daylight time on July 6, 1999:

"EXECUTIVE ORDER

BLOCKING PROPERTY AND PROHIBITING TRANSACTIONS WITH THE TALIBAN

"By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)("IEEPA"), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3, United States Code,

I, WILLIAM J. CLINTON, President of the United States of America, find that the actions and policies of the Taliban in Afghanistan, in allowing territory under its control in Afghanistan to be used as a safe haven and base of operations for Usama bin Ladin and the Al-Qaida organization who have committed and threaten to continue to commit acts of violence against the United States and its nationals, constitute an unusual and extraordinary threat to the national security and foreign policy of the United States, and hereby declare a national emergency to deal with that threat.

I hereby order:

Section 1. Except to the extent provided in section 203(b) of IEEPA (50 U.S.C. 1702(b)) and in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date:

(a) all property and interests in property of the Taliban; and

(b) all property and interests in property of persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General:

(i) to be owned or controlled by, or to act for or on behalf of the Taliban; or

(ii) to provide financial, material, or technological support for, or services in support of, any of the foregoing;

that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, are blocked.

Sec. 2. Except to the extent provided in section 203(b) of IEEPA (50 U.S.C. 1702(b)) and in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwith-

standing any contract entered into or any license or permit granted prior to the effective date:

(a) any transaction or dealing by United States persons or within the United States in property or interests in property blocked pursuant to this order is prohibited, including the making or receiving of any contribution of funds, goods, or services to or for the benefit of the Taliban or persons designated pursuant to this order;

(b) the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of any goods, software, technology (including technical data), or services to the territory of Afghanistan controlled by the Taliban or to the Taliban or persons designated pursuant to this order is prohibited;

(c) the importation into the United States of any goods, software, technology, or services owned or controlled by the Taliban or persons designated pursuant to this order or from the territory of Afghanistan controlled by the Taliban is prohibited;

(d) any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order is prohibited; and

(e) any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 3. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby directed to authorize commercial sales of agricultural commodities and products, medicine, and medical equipment for civilian end use in the territory of Afghanistan controlled by the Taliban under appropriate safeguards to prevent diversion to military, paramilitary, or terrorist end users or end use or to political end use.

Sec. 4. For the purposes of this order:

(a) the term "person" means an individual or entity;

(b) the term "entity" means a partnership, association, corporation, or other organization, group, or subgroup;

(c) the term "the Taliban" means the political/military entity headquartered in Kandahar, Afghanistan that as of the date of this order exercises de facto control over the territory of Afghanistan described in paragraph (d) of this section, its agencies and instrumentalities, and the Taliban leaders listed in the Annex to this order or designated by the Secretary of State in consultation with the Secretary of the Treasury and the Attorney General. The Taliban is also known as the "Taleban," "Islamic Movement of Taliban," "the Taliban Islamic Movement," "Talibano Islami Tahrik," and "Tahrike Islami'a Taliban";

(d) the term "territory of Afghanistan controlled by the Taliban" means the territory referred to as the "Islamic Emirate of Afghanistan," known in Pashtun as "de Afghanistan Islami Emarat" or in Dari as "Emarat Islami-e Afghanistan," including the following provinces of the country of Afghanistan: Kandahar, Farah, Helmund, Nimruz, Herat, Badghis, Ghowr, Oruzghon, Zabol, Paktiha, Ghazni, Nangarhar, Lowgar, Vardan, Faryab, Jowlan, Balkh, and Paktika. The Secretary of State, in consultation with the Secretary of the Treasury, is hereby authorized to modify the

description of the term "territory of Afghanistan controlled by the Taliban";

(e) the term "United States person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States.

Sec. 5. The Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to me by IEEPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 6. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 7.

(a) This order is effective at 12:01 a.m. Eastern Daylight Time on July 6, 1999.

(b) This order shall be transmitted to the Congress and published in the Federal Register."

THE WHITE HOUSE,
July 4, 1999

ANNEX

Mohammed Omar (Amir al-Mumineen [Commander of the Faithful])

STATE DETERMINATIONS (IN CONSULTATION WITH TREASURY):

Effective July 22, 1999, the term "territory of Afghanistan controlled by the Taliban" in the Executive Order was modified to include the city of Kabul, Afghanistan.

The Treasury Department's Office of Foreign Assets Control also administers sanctions programs involving, Cuba, Iran, Iraq, Libya, North Korea, Sudan, Syria, the Federal Republic of Yugoslavia (Serbia & Montenegro), the National Union for the Total Independence of Angola (UNITA), designated international terrorists and narcotics traffickers, foreign terrorist organizations, and designated foreign persons who have engaged in activities related to the proliferation of weapons of mass destruction. For additional information about these programs or about sanctions against the Taliban, please contact the:

OFFICE OF FOREIGN ASSETS CONTROL
U.S. Department of the Treasury
Washington, D.C. 20220
202/622–2520

September 1, 1999

7. Department of Transportation

a. Federal Aviation Administration

(1) Criminal Acts Against Civil Aviation—1998

Partial text of the 1988 report on Criminal Acts Against Civil Aviation, published by the Federal Aviation Administration's Office of Civil Aviation Security[1]

* * * * * * *

FOREWORD

Criminal Acts Against Civil Aviation is a publication of the Federal Aviation Administration's Office of Civil Aviation Security. This document records incidents that have taken place against civil aviation aircraft and interests worldwide. *Criminal Acts* has been published each year since 1986. Incidents recorded in this report are summarized in regional geographic overviews. Feature articles focus on case histories or on specific aviation-related issues. Incidents are also sorted into one of seven categories and compared over a five-year period. In addition, charts and graphs have been prepared to assist the reader in interpreting the data. The cutoff date for information in this report is December 31, 1998.

A new appendix, Appendix G, appears in this year's *Criminal Acts* report. This appendix identifies which aviation incidents in the past five years are considered politically motivated acts. Incidents for 1998 in this category are so identified in the individual incident summaries contained in the geographic regional reports.

The information contained in this publication is derived from a variety of foreign and domestic sources. In many cases, however, specific details of a particular incident may not be available, especially if it occurs outside the United States. While every effort has been made to provide complete and accurate information, it is not always possible to verify accounts of some incidents.

The FAA maintains records of aircraft hijackings, bombing attacks, and other significant criminal acts against civil and general aviation interests worldwide, which are used to compile this report. Offenses such as these represent serious threats to aviation safety and, in those incidents involving U.S. air carriers or facilities outside the United States, are often intended as symbolic attacks against the United States.

Hijacking and commandeering incidents are viewed within the context of the U.S. Federal criminal statute (49 USC 1472 (i)), which defines air piracy as any seizure or exercise of control, by force or violence or threat of force or violence, or by any other form

[1] The complete text of this publication can be viewed at the FAA Office of Civilian Security web site at: http://cas.faa.gov/crimacts/crim98/

of intimidation, and with wrongful intent, of any aircraft. This report does not distinguish between an act of air piracy and an attempted act of air piracy for statistical purposes.

The 1998 issue of *Criminal Acts Against Civil Aviation* [is] available on the world wide web at HTTP://SECURITY.FAA.GOV/CRIMACTS.[2] The 1996 and 1997 *Crimacts* reports are also available on this web site.

1998 IN REVIEW

[Image][3]

Twenty-two incidents involving attacks against civil aviation interests worldwide were recorded in 1998. This is one fewer than the number of incidents recorded in 1997 and also the fewest recorded in *Criminal Acts Against Civil Aviation* since the report was first published in 1986. The sub-Saharan Africa region recorded the most incidents in 1998 with seven, while Europe ranked second with six incidents. Latin America and the Caribbean geographical area accounted for five incidents, three were recorded in Asia, and one was recorded in North America. Neither Central Eurasia nor the Middle East and North Africa region had any incidents during the year. The Democratic Republic of the Congo experienced the most incidents (four) of any one country in 1998; three of these were commandeerings that occurred between August 2 and 4. The highest percentage of incidents in 1998 (41% or nine incidents) were hijackings.

The three incidents recorded in Asia in 1998 included two hijackings and an airport attack. Both hijackings occurred on domestic flights. The first incident occurred in Pakistan when three hijackers attempted to divert the plane to India. This is considered a politically motivated incident. The second incident took place in China when the pilot himself diverted the plane to Taiwan. The airport attack occurred in Japan when three projectiles were launched at Tokyo's Narita Airport. This incident is also considered to have been politically motivated.

No incidents occurred in Central Eurasia during 1998.

Europe had the second highest number of incidents in 1998 with five hijackings and an off-airport facility attack. The off-airport attack, a bombing of an Olympic Airways office, was the only incident in that category during 1998. This bombing is considered a politically motivated incident. Europe had the most hijacking incidents during the year. One hijacking took place in Spain on an international flight. Of the remaining four hijackings, one began in Cyprus and three began in Turkey. All four incidents ended in Turkey. The three hijackings from Turkey are considered politically motivated incidents.

[Image][3]

Five incidents took place in the Latin America and the Caribbean region during 1998. These incidents included two hijackings, a charter aviation commandeering, a shooting of an in-flight aircraft, and an airport attack. Both hijackings involved planes on domestic

[2] Should probably read http://cas.faa.gov/crimacts/.

[3] The pie chart graphic which appeared at this point can be seen at: http://cas.faa.gov/crimacts/crim98/2.html.

routes: one in Nicaragua and one in Venezuela. The other incidents occurred in Colombia: Revolutionary Armed Forces of Colombia (FARC) guerrillas stormed an airstrip and commandeered a chartered plane, a helicopter was shot down during heavy fighting, and a car bomb exploded at the Medellin Airport.

No incidents were recorded in the Middle East and North Africa geographic region. North America, which had no incidents in the previous two years, was the site of a commandeering. In Canada, a man claiming to have a bomb locked himself in the cockpit of the plane and ordered the crew to fly him to Illinois. No incidents were recorded in the United States during 1998.

The most incidents in 1998 occurred in the sub-Saharan Africa region. Four incidents occurred in the Democratic Republic of the Congo (DROC) and three in Angola. Three of the DROC incidents were commandeerings that occurred between August 2 and 4. In all three incidents, civilian aircraft were commandeered to ferry troops and supplies. The fourth incident in the DROC was the shooting down of a plane that had been evacuating civilians. Tutsi-led rebels admitted to shooting down the plane with a missile. Two of the incidents in Angola occurred when planes were shot down in an area of heavy fighting between government troops and National Union for the Total Independence of Angola (UNITA) rebels. The total number of casualties is unknown. The third Angolan incident was a bombing of the Cabinda airport in which two people were killed and three injured. None of the incidents are considered to have been politically motivated.

GEOGRAPHIC OVERVIEWS

SIGNIFICANT CRIMINAL ACTS AGAINST CIVIL AVIATION

ASIA

[Image][4]

Chronology

January 28	Shooting at Jakarta Airport	Indonesia*
February 2	Attack—Narita Airport	Japan
March 23	Incident on Aircraft	Taiwan*
May 24	Hijacking—Pakistan International Airlines	Pakistan
October 28	Hijacking—Air China	China to Taiwan

*Incident Not Counted in Statistics

*January 28, 1998—Shooting at Jakarta Airport—Indonesia **

Two incoming passengers who had just deplaned at Terminal F at the Soekarno-Hatta International Airport were shot by an unidentified assailant. One victim, a Japanese national, was shot in

[4] The map graphic which appeared at this point can be seen at: http://cas.faa.gov/crimacts/crim98/3.html

the shoulder, while the other, an Indonesian national, was shot in the face. The attackers have not been identified.

February 2, 1998—Attack—Narita Airport—Japan

Three projectiles were launched at Tokyo's Narita Airport slightly injuring a cargo handler and prompting airport officials to temporarily shut down the airport runway. The steel-tube launchers were discovered embedded in the ground at a parking lot behind a Holiday Inn located near the airport. While police were investigating the site and before the launchers were rendered safe, three ten-inch projectiles were automatically fired by a timer. Two of the projectiles exploded on a paved area of the airport's apron near the hangers for cargo aircraft, while the third failed to explode and was found intact near the launch site. The runway was closed for just six minutes while airport authorities checked for damage. The Japanese radical group Kakurokyo (Revolutionary Worker's Association), Hazama faction, subsequently claimed responsibility for the attack, boasting that they had overcome the increased security put into effect for the Winter Olympic Games at Nagano.

This attack is considered a politically motivated incident.

*March 23, 1998—Incident on Aircraft—Taiwan **

A Taiwanese man attempted to set fire to a Great China Airlines de Havilland Dash 8–300 aircraft carrying 16 passengers and four crew during a domestic flight from Taipei to Chiayi. Eleven minutes after takeoff, the passenger suddenly got out of his seat and began to douse the cabin with gasoline, which he carried in two plastic tea bottles. After noticing the odor, a flight attendant saw the man preparing to light the gasoline with a cigarette lighter. A security officer aboard the flight and three other passengers subdued the man, however, before he was able to start a fire. The plane made an emergency landing at the Taichung Airport, and the suspect was taken into custody. He reportedly told police that he had been trying to kill himself. There were no injuries in this incident.

May 24, 1998—Hijacking—Pakistan International Airlines—Pakistan

Pakistan International Airlines flight 554 was hijacked during a domestic flight to Karachi from Turbat, a town in Baluchistan Province near the Iranian border. The plane, a twin-engine Fokker Friendship aircraft, carried 29 passengers and four crew members. Three hijackers armed with handguns and claiming to have explosives ordered the crew to fly to India. The hijackers also demanded (U.S.) $20 million for development in their native Baluchistan Province. Rather than fly to India, however, the crew took the plane to the airport in Hyderabad, Pakistan, located 90 miles from Karachi. The hijackers were led to believe that they had landed at a remote airstrip in Bhoj, India. Upon landing, the plane was immediately surrounded by security forces and vehicles were parked in front to prevent it from leaving. More than five hours later the hijackers reportedly told the "Indian negotiators" that Baluchistan needed development funds rather than nuclear tests by the Pakistani government in response to five Indian nuclear tests two

weeks before. The hijackers agreed to release the women and children aboard the aircraft. As the passengers were deplaning, Pakistani commandos overpowered the hijackers. A hijacker and an army officer were slightly injured in the ensuing scuffle.

This hijacking is considered a politically motivated incident.

October 28, 1998—Hijacking—Air China—China to Taiwan

Air China flight 905 was diverted by its pilot to Taiwan during a flight from Beijing to Kunming. The Boeing 737 aircraft was carrying nine crew members and 94 passengers, including the pilot's wife and child. The pilot reportedly made the diversion because of his dissatisfaction with his life on mainland China. The Taiwanese government dispatched four air force fighters to intercept and follow the plane to Taipei's Chiang Kai-Shek International Airport. The pilot, upon landing, then surrendered to Taiwanese officials without incident. On December 8 Taiwanese prosecutors indicted the pilot on hijacking-related charges, which carry a maximum penalty of death.

CENTRAL EURASIA

[Image] [5]

Chronology

August 9	Incident on Aircraft	Russia*

* Incident Not Counted in Statistics

*August 9, 1998—Incident on Aircraft—Russia **

A flight attendant on an East Line Aviation flight found an anonymous note demanding 651,000 rubles (approximately $100,000 U.S.) and fuel to fly the plane to another country. The note also explained that the airplane would be blown up if the demands were not met. The Tupolev TU–154 aircraft with 97 passengers was on a domestic flight from Irkutsk to Moscow. The plane landed at Moscow's Domodedovo Airport and was taken to a remote location where security forces had been positioned. No one on the plane came forward to claim the note or negotiate with authorities. Women and children were allowed to deplane; luggage and the 70 male passengers were checked for weapons and explosives but nothing was found. The men were taken to a terminal where handwriting samples were unsuccessfully compared to the note. Passengers later said that they were not told of the note but were advised that the plane was being held by health officials because someone with cholera was suspected of being aboard.

EUROPE

[Image] [6]

[5] The map graphic which appeared at this point can be seen at: http://cas.faa.gov/crimacts/crim98/4.html.

[6] The map graphic which appeared at this point can be seen at: http://cas.faa.gov/crimacts/crim98/5.html.

February 24	Hijacking—Turkish Airlines	Turkey
March 30	Hijacking—Cyprus Turkish Airlines	Cyprus to Turkey
May 17	Bombing—Olympic Airways Office	Greece
June 23	Hijacking—Iberia	Spain
September 14	Hijacking—Turkish Airlines	Turkey
October 2	Corporate Aircraft Hijacking	France*
October 29	Hijacking—Turkish Airlines	Turkey

*Incident Not Counted in Statistics

February 24, 1998—Hijacking—Turkish Airlines—Turkey

A lone hijacker seized control of a Turkish Airlines (THY) Avro RJ100 aircraft with 63 passengers and five crew members shortly after takeoff from Adana. The plane was on a domestic flight en route to Ankara. The hijacker, a Turkish male, claimed to have an explosive device hidden in a toy panda bear and demanded to be taken to Tehran, Iran. The pilot told the hijacker that Tehran's airport was closed and persuaded him to allow the plane to land at Diyarbakir Airport in Turkey for refueling. Shortly after the plane landed, 20 passengers were released by the hijacker, but Turkish officials refused to refuel the plane. The hijacker then demanded a separate plane to fly him and seven hostages—the pilot, copilot, and five passengers—to Tehran. As Turkish security forces were preparing to assault the plane, several passengers overpowered the hijacker and he was taken into custody. No explosives or weapons were found on the plane, and no one was injured. The hijacker's motive is unknown, but he reportedly said that he was protesting the oppression of Muslims in Algeria. On December 15 the hijacker was sentenced to a prison term of eight years and four months.

This hijacking is considered a politically motivated incident.

March 30, 1998—Hijacking—Cyprus Turkish Airlines—Cyprus to Turkey

A Turkish male passenger hijacked a Cyprus Turkish Airlines Boeing 727 aircraft, carrying 97 passengers and eight crew members, shortly after takeoff from the Turkish-controlled part of Cyprus. The plane was en route to Ankara, Turkey. The hijacker, who acted alone and claimed to have a bomb, demanded to be flown to Bonn, Germany. The pilot told the hijacker that the aircraft did not have enough fuel and persuaded him to allow the plane to land at Esenboga Airport in Ankara. Turkish security forces surrounded the plane when it landed and, after a brief period of negotiations, stormed the plane and overpowered the hijacker. No weapons or explosives were found on the plane. There were no injuries to passengers or crew members.

May 17, 1998—Bombing—Olympic Airways Office—Greece

An improvised explosive device detonated in front of the Olympic Airways ticket office in central Athens. The blast caused consider-

able damage to the facility, but no injuries were reported. At approximately 7:30 p.m. local time, an unidentified caller notified an Athens television station that bombs would explode at an Olympic Airways ticket office and an Ionian Bank branch at 8:00 p.m. The caller claimed solidarity with the employees of both targets. The devices detonated at approximately 8:20 p.m. at the ticket office and several minutes later at the bank. A short time after the bombings two phone calls to different privately-owned television stations claimed credit for both attacks. The first call claimed the bombings on behalf of "May 98," and the second caller claimed them for the "Fighting Guerrillas of May." Neither group was previously known. Although the motive for the ticket office attack is unknown, it may be linked to an announcement earlier in the day by the Greek Economic Minister calling for the partial privatization of Olympic Airways, the national air carrier of Greece.

This bombing is considered a politically motivated incident.

June 23, 1998—Hijacking—Iberia—Spain

Approximately one hour after departing Seville, Iberia flight 1121 was hijacked and diverted to Valencia Airport. The hijacking occurred while the B–727 aircraft was flying from Seville to Barcelona, Spain, en route to Amsterdam, the Netherlands. It was initially thought that there were three hijackers, but there was only one. The hijacker told the pilot that he had a remote control device and could detonate a bomb in a suitcase in the plane's cargo hold. He initially demanded to be flown to Athens, Greece, but then requested to be taken to Tel Aviv, Israel. The aircraft landed in Valencia for fuel, and the hijacker began demanding food and drink and fuel for the flight to Israel. Approximately an hour later the hijacker agreed to release 18 people, mostly children. After several more hours, the Spanish National Police determined that only one hijacker was involved and they identified him as a psychiatric patient. The hijacker, after speaking to his psychiatrist, surrendered approximately four hours after seizing the plane. None of the 124 passengers and seven crew members were injured during the incident. A search of the plane found no bomb on board; the device held by the hijacker was a television remote control.

September 14, 1998—Hijacking—Turkish Airlines—Turkey

THY flight 145 was hijacked during a domestic flight from Ankara to Istanbul and diverted to the Black Sea coastal city of Trabzon. The Airbus A–310 aircraft carried 76 passengers and eight crew members. The plane landed safely, the passengers were released, and the hijacker surrendered to airport authorities. There were no injuries. According to a THY spokesman the hijacker claimed to have a package bomb; however, the Turkish Minister of Transportation stated that he had a plastic toy gun. Press reports indicate that the hijacker's motive was to protest the Turkish government's ban on women wearing the traditional Islamic head covering, the chador, at Turkish universities.

This hijacking is considered a politically motivated incident.

*October 2, 1998—Corporate Aircraft Hijacking—France **

A corporate jet belonging to the French aircraft manufacturer Dassault Aviation was hijacked during a routine flight shuttling employees between Marseille and Paris. The hijacker reportedly was a disgruntled former employee armed with a pump-action shotgun and a hand grenade. The plane left the Istres military base in the morning and landed at the Marseille Airport at 12:30 p.m. local time. After demanding to speak to a lawyer, the hijacker began to negotiate. He eventually released all 15 passengers and three crew members unharmed and surrendered.

October 29, 1998—Hijacking—Turkish Airlines—Turkey

A man with a handgun and a grenade hijacked THY flight 487, which had departed Adana at approximately 7:45 p.m. en route to Ankara. The B–737 aircraft carried approximately 40 passengers and crew. The hijacker demanded to be taken to Lausanne, Switzerland, but agreed to the pilot's request to land at Sofia, Bulgaria, for refueling. The pilot, however, landed at Ankara's Esenboga Airport at approximately 9:00 p.m., while the hijacker believed they were in Sofia. The hijacker told the passengers that he was protesting the Turkish government's "dirty war" against ethnic Kurds in Turkey. The pilot also read a statement from the hijacker demanding to be taken to Lausanne because it was there that the modern Turkish state was created in a treaty signed 75 years earlier. (The hijacking occurred during the 75th anniversary celebration of the Turkish Republic.) The hijacker's statement also praised "Chairman Apo," Abdullah Ocalan, the leader of the Kurdistan Worker's Party (PKK). Although negotiations were conducted, the hijacker did not release any passengers. Approximately seven hours after the plane landed (4:00 a.m.) Turkish National Police special action teams stormed the plane through the rear door, evacuated some passengers, and killed the hijacker in the cockpit. There were no other injuries. It is not known whether the hijacker acted on his own or on behalf of the PKK. Coincidentally, one week earlier this same plane was prevented from taking off in Strasbourg, France, by protesters trying to prevent the deportation of a Kurd to Turkey.

This hijacking is considered a politically motivated incident.

LATIN AMERICA AND THE CARIBBEAN

[Image] [7]

Chronology

January 31	Hijacking—Atlantic Airlines	Nicaragua to Costa Rica
March 12	Charter Aviation Commandeering	Colombia

[7] The map graphic which appeared at this point can be seen at: http://cas.faa.gov/crimacts/crim98/6.html.

Chronology—Continued

July 25	Hijacking—Aviones de Oriente	Venezuela
October 27	Shooting at Helicopter	Colombia
November 25	Bombing—Medellin Airport	Colombia

January 31, 1998—Hijacking—Atlantic Airlines—Nicaragua to Costa Rica

A Nicaraguan hijacked an Atlantic Airlines twin-engine aircraft with 21 persons on board shortly after takeoff from Bluefields, Nicaragua. The aircraft was on a scheduled domestic flight to Little Corn Island. Shortly after takeoff, the hijacker doused a passenger and a portion of the aircraft's interior with gasoline and threatened to ignite it if the plane did not divert to San Andres Island, Colombia. The pilots told the hijacker they did not have sufficient fuel to reach San Andres and convinced him to go to Puerto Limon, Costa Rica. According to local press reports, the hijacker was arrested without incident by Costa Rican authorities upon his arrival. There were no injuries to passengers or crew members during this incident. The hijacker reportedly is mentally unstable and is an unemployed drug addict.

March 12, 1998—Charter Aviation Commandeering—Colombia

Twenty Revolutionary Armed Forces of Colombia (FARC) guerrillas reportedly stormed the airstrip at Palmerito, Cumbaribo Municipality, and seized control of a Cessna 182 aircraft that had just landed. The plane was to pick up officials from the Office of the National Registrar. The pilot and copilot were forced from the plane, and it was taken over by the guerrillas. The plane reportedly was flown to Llanos del Yari to pick up a wounded FARC leader and then used to take him to an unidentified country for medical treatment. The plane is owned by the Llanera de Aviacion air company and had been leased to mobilize electoral delegates throughout several municipalities. There is no additional information.

July 25, 1998—Hijacking—Aviones de Oriente—Venezuela

Four armed, masked hijackers seized control of an Aviones de Oriente plane during a domestic flight. The hijackers were among 22 people on board the Beechcraft 1900 aircraft, which was en route from Caracas to Barinas State. The hijackers forced the plane to divert to a remote airstrip at a cattle ranch. They released the passengers and crew and took the plane to Colombia, where it was recovered in early August. It is believed that drug traffickers were responsible for this hijacking as they have a history of stealing small and medium-sized aircraft for use in smuggling operations. Two people were arrested in Arauca Department, Colombia, in connection with this hijacking.

October 27, 1998—Shooting at Helicopter—Colombia

According to press reports, a helicopter was shot down during heavy fighting between FARC guerrillas and the Colombian mili-

tary in southern Putumayo Department. The helicopter, owned by the private company Helicol, was flying near the town of Orito when it reportedly was shot down with a rocket (not further identified). The helicopter crashed, and an unknown number of people were killed.

November 25, 1998—Bombing—Medellin Airport—Colombia

A stolen car packed with approximately 130 pounds of dynamite exploded outside a cargo warehouse at Medellin's Enrique Olaya Herrerra Airport. The explosion caused nearly $250,000 damage to air courier offices, a fire station, and six parked cars. The blast also injured nine people. It is believed that the attack was directed against offices of a local air courier service.

MIDDLE EAST AND NORTH AFRICA

[Image][8]

Chronology

July 2	Arrests of Persons with Explosives at Khartoum Airport	Sudan*

*Incident Not Counted in Statistics

*July 2, 1998—Arrests of Persons with Explosives at Khartoum Airport—Sudan**

Sudanese security forces arrested two individuals who were allegedly planning to detonate an explosive device at Khartoum's Civil Airport. The arrests came at the end of a week-long series of explosions at electric plants, petroleum depots, hospitals, and other installations around Khartoum. No group claimed responsibility for the attacks, but authorities suspect the National Democratic Alliance, a coalition of banned Sudanese political parties.

NORTH AMERICA

[Image][9]

Chronology

February 6	Possible Prevented Hijacking	United States*
May 10	Commandeering—Air Luxor	Canada
November 13	Incident at Atlanta Airport	United States*

*Incidents Not Counted in Statistics

[8] The map graphic which appeared at this point can be seen at: http://cas.faa.gov/crimacts/crim98/7.html.

[9] The map graphic which appeared at this point can be seen at: http://cas.faa.gov/crimacts/crim98/8.html.

*February 6, 1998—Possible Prevented Hijacking—United States **

A plan to hijack an airplane may have been thwarted at a security checkpoint at the Fort Lauderdale-Hollywood International Airport in Florida. A handgun was discovered in a carry-on bag when the bag went through X-ray screening. No one claimed the bag, and when it was opened an unloaded .38 caliber revolver was found in addition to several notes. One note read: "Warning . . . I am a revolutionary and willful martyr . . . this is a hijacking to Cuba! I'm willing to die, are you?" The person who had placed the bag on the security conveyor belt could not be identified at the time of the incident. Several hours later, however, an individual came to claim the bag. Although initially refusing to identify himself, the individual said that he was a member of a "Muslim faction" and had been sent by the elders of his organization to pick up the bag which contained church documents. He also said he did not know that a gun was in the bag.

Police determined the man's identity and found that he had a series of prior arrests, was a convicted felon, and had been charged with first degree murder in New Mexico but fled while on bail. He was detained as a material witness for a federal grand jury investigation of the handgun episode at the airport and was subsequently indicted as a felon in possession of a firearm.

May 10, 1998—Commandeering—Air Luxor—Canada

A lone individual commandeered a Portuguese Air Luxor aircraft as passengers were being enplaned at Toronto's Pearson International Airport. The Lockheed L–1011 aircraft was being prepared for a flight to Lisbon, Portugal. The individual, a Toronto resident, forced his way past a security check point and onto the plane. He claimed to have a bomb, locked himself in the cockpit, and ordered the crew to fly him to Chicago, Illinois. The man became distracted enough to allow a crew member to unlock the door permitting police officers to subdue him. There were no injuries. The plane was searched for weapons or explosives, but none were found. A gym bag carried by the suspect contained only clothes and other innocuous items. The man was charged with assault, attempted hijacking, and endangering the safety of an aircraft.

On August 7, 1998, the suspect appeared in court to answer the charges. His psychiatric record was reviewed and he was found to be not criminally responsible. Charges against him were subsequently dropped.

*November 13, 1998—Incident at Atlanta Airport—United States **

An individual approached the main domestic checkpoint at Atlanta's Hartsfield International Airport and placed a loaded .45 caliber handgun at the back of a ticketed passenger. He told the passenger to keep walking and not turn around. When a checkpoint screener challenged the man holding the gun, he doused the back of his hostage with lighter fluid and tried to force his way through. He was immediately apprehended and arrested by police. The handgun was loaded with eight bullets, and the individual had matches and a knife in his pocket. The individual was charged with several offenses, including aggravated assault, terroristic threats, and carrying an incendiary device, and was incarcerated at the

Clayton County Jail in Jonesboro, Georgia. There is no information on the motive for his action.

SUB-SAHARAN AFRICA

[Image] [10]

Chronology

August 2 and 4	Aircraft Commandeerings	Democratic Republic of Congo (Three Incidents)
October 10	Shooting at Aircraft	Democratic Republic of Congo
October 22	Bombing—Cabinda Airport	Angola
December 14	Shooting at Aircraft	Angola
December 26	Shooting at Aircraft	Angola

August 2 and 4, 1998—Aircraft Commandeerings—Democratic Republic of Congo (Three Incidents)

During fighting between rebel forces and government troops, civilian aircraft were commandeered and the pilots forced to ferry troops and supplies in the planes. In each incident the plane was seized in Goma. In the August 2 incident Congolese rebels seized a Boeing 727 aircraft owned by Kinshasha-based Blue Airlines. Two days later, rebels commandeered a Congo Air Cargo B–707 aircraft and forced the pilot to fly soldiers to the Kitona military air base in the western part of the country. A third plane, belonging to Air Atlantic Cargo and chartered to Lina Congo (LAC), was also seized and forced to fly to Kitona after stopping to refuel and pick up ammunition in Kinshasha. There were also reports of private planes and transport aircraft being seized.

October 10, 1998—Shooting at Aircraft—Democratic Republic of Congo

An LAC B–727 aircraft crashed in the jungle near the town of Kindu after a missile, possibly a SA–7, struck a rear engine. There were no survivors among the reported 40 persons on board. A spokesman for LAC reported that the plane was evacuating civilians to Kinshasha from Kindu. Tutsi-led rebels admitted to shooting down the plane but claimed that it was landing and carrying government reinforcements and supplies. The rebels also stated that they had prior knowledge that the plane would be arriving with soldiers, but no civilians, on board.

This attack is not considered politically motivated because it occurred in a conflict zone and the plane may have been perceived as being used for military purposes.

[10] The map graphic which appeared at this point can be seen at: http://cas.faa.gov/crimacts/crim98/9.html.

October 22, 1998—Bombing—Cabinda Airport—Angola

An improvised explosive device detonated in an airline passenger guest house at Cabinda Airport, killing two people and injuring three others. There were no claims of responsibility, although local officials believe that the explosives may have belonged to local smugglers. A second theory is that the device was placed by a faction of the Front for the Liberation of the Enclave of Cabinda.

December 14, 1998—Shooting at Aircraft—Angola

During fighting between Angolan government forces and National Union for the Total Independence of Angola (UNITA) rebels near the town of Kuito, an Antonov–12 cargo/passenger aircraft was shot down by rebel forces. The plane, apparently privately-owned and under contract to the provincial government, was carrying an unknown number of women, children, and wounded government troops. It had taken off from Kuito en route to Luanda and was flying at a low altitude when it was struck. Reports differ as to whether the plane was hit by antiaircraft fire or an "unspecified" surface-to-air missile. The exact number of casualties is unclear but, according to one report, five crew members and five passengers were killed.

This attack is not considered politically motivated because it occurred in a conflict zone and the plane may have been perceived as being used for military purposes.

December 26, 1998—Shooting at Aircraft—Angola

A C–130 aircraft was shot down near the village of Vila Nova during a flight between Huambo and Suriname. The plane was owned by TransAfric and chartered by the United Nations. Fourteen people—ten of whom were U.N. Observer Mission in Angola personnel—were reportedly on the plane. Despite reports of possible survivors there were none; a U.N. search team concluded that the plane had apparently disintegrated as it hit the ground and burst into flames. The area where the crash occurred had been the scene of heavy fighting between government troops and UNITA rebels for nearly a month. Each side blamed the other for shooting down the plane. There is no information regarding the type of weapon used to bring the plane down.

This attack is not considered politically motivated because it occurred in a conflict zone and the plane may have been perceived as being used for military purposes.

FEATURE ARTICLES

SHOOTING AT IN-FLIGHT AIRCRAFT INCIDENTS IN ANGOLA

Two planes were shot down in the central highlands of Angola during the last two weeks of December 1998. Both planes went down in an area between the cities of Kuito and Huambo. At the time of the crashes, this area was the site of heavy fighting between National Union for the Liberation of Angola (UNITA) rebels and the Angolan government.

On December 14, an Antonov 12 turbo-prop aircraft was shot down by UNITA rebels shortly after it took off from the airport in Kuito. The privately-owned plane had been contracted out to the

provincial government and was being used to deliver relief aid to Kuito. The plane was approximately 18 miles north of Kuito en route to Luanda when it was shot down. Reports differ as to whether antiaircraft fire or an "unspecified" surface-to-air missile was used in the attack. The plane went down in UNITA-controlled territory. Because the area was the site of heavy fighting it was difficult to reach the aircraft. However, it is believed that there were no survivors among the unknown number (but possibly ten) of women, children, and wounded government troops aboard the plane.

On December 26, a C–130 aircraft owned by TransAfric and chartered by the United Nations was struck by antiaircraft fire as it left Huambo en route to Saurime. The plane crashed near the village of Vila Nova, less than five miles from Huambo. There were 14 people reportedly on board: ten members of the U.N. Observer Mission in Angola and four crew members. The government and UNITA rebels accused the other of shooting down the plane. The government also accused UNITA of holding the survivors hostage, but UNITA, which controlled the area, contended that there were no survivors. A U.N. search team which briefly inspected the crash site concluded that the plane disintegrated as it hit the ground and burst into flames. The search team found charred bodies with the plane and further concluded that there had been no survivors. Further investigation could not be carried out because of heavy fighting in the area.

Because of the shoot-downs, the U.N. mission in Angola temporarily suspended all flights to and from Huambo. The U.N. also threatened to pull out some 1,000 observers deployed throughout Angola to oversee the implementation of peace accords. These incidents also illustrate the dangers posed to aircraft flying in areas where significant fighting or civil unrest is occurring.

THE HIJACKING OF TURKISH AIRLINES FLIGHT 487

On October 29, 1998, a Kurdish male armed with a pistol and a hand grenade hijacked Turkish Airlines flight 487 shortly after takeoff and demanded that the plane be diverted to Lausanne, Switzerland. Carrying 34 passengers and six crew, the Boeing 737 aircraft departed at approximately 7:45 p.m. from Adana International Airport in southern Turkey en route to Esenboga Airport in the capital of Ankara.

The hijacker forced the pilot-in-command to read a statement that made his motive clear. The Kurdish hijacker chose October 29 to coincide with Turkey's nationwide 75th anniversary celebrations, which included visits by 13 foreign leaders. He tried to divert the aircraft to Lausanne as an act of protest against a treaty signed there 75 years earlier that created the Turkish nation. The treaty has symbolic importance to Kurdish activists and insurgents because it denied Kurdish independence promised in an earlier treaty and gave territorial control to the Turkish government. The statement concluded by praising Abdullah Ocalan, the leader of the Kurdistan Workers' Party (PKK), an insurgent group and international terrorist organization.

The pilot convinced the hijacker to allow the plane to land in Sofia, Bulgaria, for refueling. However, the pilot circled over An-

kara to add air time in an effort to convince the hijacker that the flight was still en route to Sofia. The aircraft landed at Esenboga Airport at approximately 10:00 p.m. local time and stopped on the tarmac in front of Terminal C. Turkish National Police set up a crisis post in the control tower and began negotiations. As an additional security measure, Turkish security officials instructed local mosques to postpone their calls to prayer so that the hijacker would not suspect he was in Turkey. The hijacker reportedly warned the flight crew that he would detonate the hand grenade if any type of operation or rescue attempt were launched on the plane. He apparently did not threaten any of the passengers and spent most of the time in the cockpit. Negotiators pretended to be Bulgarian officials and spoke only English.

As negotiations through the night proved unsuccessful, a Turkish National Police Special Actions Team, comprised of officers specially trained to respond to aviation incidents, prepared to storm the aircraft. At approximately 4:35 a.m. on October 30, the team boarded the aircraft through the rear door, evacuated some of the passengers, and then fatally shot the hijacker, who was in the cockpit. None of the passengers or crew were injured in the incident.

The Special Actions Team found forged Turkish identification, a 7.65 mm pistol with five rounds, and a Russian T1 hand grenade with the pin still in place on the hijacker's body. Although the 33-year-old hijacker's statement praised the PKK, he most likely was a lone sympathizer acting in support of the Kurdish cause and not a trained PKK member.

Following this fourth hijacking in Turkish airspace in 1998, Turkey's Transport Minister Arif Ahmet Denizolgun announced a review of security measures at all Turkish airports. Turkish authorities also launched an investigation into how the hijacker was able to smuggle his weapons through screening at Adana and onto the aircraft.

TRENDS

1994–1998

INTRODUCTION

[Image] [11]

This section contains an examination of trends for the five-year period 1994–1998. Significant incidents involving civil aviation are separated into one of the following categories:

- "Hijackings of Civil Aviation Aircraft,"
- "Commandeerings of Civil Aviation Aircraft,"
- "Bombings/Attempted Bombings/ Shootings on Civil Aviation Aircraft,"
- "Shootings at In-Flight Aircraft,"
- "Attacks at Airports,"
- "Off-Airport Facility Attacks," and
- "Incidents Involving Charter and General Aviation Aircraft."

[11] The graphic which appeared at this point can be seen at: http://cas.faa.gov/crimacts/crim98/12.html.

Charts are included to present a visual perspective of incidents in these categories. One fewer incident was recorded in 1998 than in 1997 (22 vice 23), which continues the trend of four out of the past five years. The only exception was in 1996, when more incidents were recorded than in the previous year. The 22 incidents in 1998 were also the fewest in the five-year period; the most were in 1994 (50 incidents). The total number of incidents for the five-year period is 154.

In comparing 1998 statistics with those of the previous year, increases occurred in two categories—"Commandeerings of Civil Aviation Aircraft" and "Shootings at In-Flight Aircraft." Two commandeering incidents were recorded in 1997, but four were recorded for 1998. Four shooting at aircraft incidents occurred in 1998 compared to none the previous year. Decreases were noted in four of the seven incident categories. There were three fewer "Attacks at Airports" incidents (3), two fewer "Off-Airport Facility Attacks" (1), one less "Hijacking of Civil Aviation Aircraft" incident (9), and one less "Bombings/Attempted Bombings/Shootings on Aircraft" incident (0). One "Charter/General Aviation Aircraft" incident was also recorded, the same as in 1997.

The 22 incidents in 1998 were slightly less than one-half of the 50 incidents recorded in 1994. The overall decline for the five-year period is shown quite distinctly on the chart on the previous page. Interpretation of the data is necessary, however, to avoid reaching incorrect conclusions.

The fact that the number of incidents against civil aviation has declined over the past five years, and longer, may be interpreted as an indication that the threat is decreasing. This, however, is not true, as several events in the past few years attest. The September 1996 conviction of Ramzi Yousef for his plan to place explosive devices on as many as 12 U.S. airliners flying out of the Far East in 1995 is proof that a threat to aviation exists. Yousef was also convicted of placing a device on a Philippine Airlines plane in December 1994 as a test for his more elaborate plan. One person was killed in this incident. Other examples of the continuing threat include the bombing of the Alas Chiricanas Airline plane in Panama in July 1994, in which 21 people died; the commandeering of the Air France flight in Algeria in December 1994 by members of the Armed Islamic Group; and the hijacking of the Ethiopian Airlines plane which crashed into the Indian Ocean in November 1996.

There is every reason to believe that civil aviation will continue to be an attractive target to terrorist groups. The publicity and fear generated by a terrorist hijacking or bombing of an airplane can be a powerful attraction to a group seeking to make a statement or promote a particular cause. Civil aviation will also continue to be used by individuals who are acting to further personal goals, such as asylum seekers. It matters not to them that most individuals who hijack an airplane for personal goals are prosecuted for their actions. So long as factors such as these exist, the threat to civil aviation will remain significant; that some years pass with fewer incidents does not necessarily indicate that the threat has diminished. Increased awareness and vigilance are necessary to deter future incidents—be they from terrorists like Ramzi Yousef or non-terrorists bent on suicide, as occurred in Brazil in 1997. It is impor-

tant to do the utmost to prevent such acts rather than to lower security measures by interpreting the statistics as an indication of a decreasing threat.

HIJACKINGS OF CIVIL AVIATION AIRCRAFT

An incident is defined as a hijacking rather than a commandeering when the aircraft is in an in-flight status, that is, once the doors are closed. By this definition, a hijacking can occur on the ground. Hijackings are distinguished from other in-flight situations (such as those involving unruly passengers) by one or more of the following criteria: the act involves the claim or use of a weapon; it is committed by a terrorist group or someone acting on behalf of a terrorist group; there are deaths or injuries to passengers or crew; or there is premeditation (hoax device, fake weapon, previously prepared note, more than one hijacker, etc.). There is no distinction made between incidents in which a plane does not divert from its flight plan and those which do. Hijacking incidents involving general aviation or charter aircraft are recorded separately and are not included in this category.

Between 1994 and 1998, sixty-five hijackings of civil aviation aircraft were recorded worldwide. Nine hijackings occurred in 1998, one fewer than in the previous year and the lowest total (by one incident) in the five-year period. Twenty-three incidents in 1994 were the highest for the period. Hijackings accounted for the majority of incidents for each year in the five-year period.

Five of the nine hijackings in 1998 were recorded in Europe; two were recorded in Asia and two in Latin America and the Caribbean. No hijackings occurred in North America (the last was in the United States in 1991). The number of hijackings in Europe and in Latin America and the Caribbean were more than occurred in these regions in 1997. Fewer hijackings were recorded in all other geographic regions except sub-Saharan Africa, where no incidents were recorded—the same as in 1997.

Seven of the nine hijacking incidents in 1998 took place on planes flying domestic routes, and 45 of the 65 hijackings between 1994 and 1998 occurred during domestic flights. In 1998, seven of the nine hijacked planes diverted from their original flight plan and landed in a location different from its intended destination. Three of the hijackings took place in Turkey—the most for any country in 1998—and involved Turkish Airlines aircraft—the most for any single carrier.

Of all geographic regions in the 1994–1998 period, Asia recorded the highest number of hijackings (18 incidents or 27.6%), with China having the most incidents (11). Europe had the second highest number of hijackings (14 incidents or 21.5%) with Spain and Turkey each recording three. The Middle East/North Africa region ranks third with 12 hijackings (18.4%), of which Saudi Arabia and Sudan each recorded four. The sub-Saharan Africa region and the Latin America and Caribbean region each recorded eight hijackings (12.3%); the four incidents in Ethiopia and three in Brazil were the most in these regions. Five incidents (7.6%) were recorded in Central Eurasia, of which four occurred in Russia. North America had the fewest number of incidents (0) in the five-year period. China had the highest number of incidents (11) of any country in the five-

year period; Ethiopia, Russia, Saudi Arabia, and Sudan each recorded four hijackings.

[Image] [12]

Personal factors, such as seeking to escape social, political or economic conditions in one's homeland, are often motives for hijacking aircraft. Forty-three of the 65 hijackings between 1994 and 1998 were committed for personal reasons. Eight incidents were criminally motivated, seven were politically motivated, and seven were committed for reasons that are unknown. Four politically-motivated incidents occurred in 1998. In each incident a lone hijacker was either protesting or bringing publicity to some issue. Among other incidents in 1998, only one was committed for personal reasons. In this incident the pilot of an Air China flight diverted the plane to Taiwan by himself. One of the 1998 incidents was criminally oriented (narcotics), and the motives behind three are unknown.

The most noteworthy hijacking of the five-year period was the incident involving an Ethiopian Airlines plane in November 1996. Three Ethiopians seeking to escape conditions of poverty demanded to be taken to Australia. The hijackers did not believe the pilot when told that the plane needed to be refueled. The plane ran out of fuel and crashed into the Indian Ocean killing 123 people, including the hijackers. Approximately 130 people (hostages, crew, hijackers) were killed in hijacking incidents between 1994 and 1998.

BOMBINGS/ATTEMPTED BOMBINGS/SHOOTINGS ON CIVIL AVIATION AIRCRAFT

Between 1994 and 1998, three bombings and two attempted bombings occurred on civil aviation aircraft. Three incidents were recorded in 1994 and one each in 1996 and 1997.

[Image] [13]

The three incidents in which explosive devices detonated on in-flight aircraft involved an Alas Chiricanas Airlines plane (Panama, July 1994), a Philippine Airlines plane (Philippines, December 1994), and a Transporte Aereo Mercosur (TAM) plane (Brazil, July 1997). In the Alas Chiricanas incident, the plane crashed and all 21 people on board were killed. The Philippine Airlines explosion killed one passenger, but the plane landed safely. The TAM plane also landed safely, but a passenger was killed from the explosion. In this incident, a passenger had placed the device for an apparent suicide attempt; however, he was not the individual killed in the blast, which tore a hole in the plane's fuselage.

The two attempted bombing incidents involved an Orbi Georgian Airways plane in the Republic of Georgia in September 1994 and an All Nippon Airways (ANA) flight in Japan in November 1996. In the first incident, the device was in luggage which the bomber had asked another passenger to take on-board. The ANA device was in checked luggage and was found when the bag could not be matched with a passenger on the flight.

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[12] The pie chart graphic which appeared at this point can be seen at: http://cas.faa.gov/crimacts/crim98/13.html.

[13] The pie chart graphic which appeared at this point can be seen at: http://cas.faa.gov/crimacts/crim98/14.html.

The Philippine Airlines bombing was a test for a more elaborate plan, which involved placing explosive devices on as many as 12 U.S.-registered aircraft flying routes out of the Far East. Fortunately, the plot was uncovered before it could be implemented. Ramzi Yousef, convicted in the 1993 World Trade Center bombing in New York City, was behind the plot. He was apprehended in Pakistan, extradited to the United States, and convicted in both the Far East plot and the Philippine Airlines bombing. Had Yousef's plan succeeded, even partially, the results would have been catastrophic. The Philippine Airlines bombing and the Alas Chiricanas bombing are considered politically motivated incidents, and they are the only incidents of this type in this category.

SHOOTINGS AT IN-FLIGHT AIRCRAFT

These incidents include acts in which in-flight aircraft (commercial and general/charter aviation) are fired upon either from the ground (surface-to-air missiles, antiaircraft artillery, small arms fire, etc.) or the air. This category does not include all incidents of this type but only those judged to be of significance. This is determined by the target, the type of attack, or any resulting casualties. Attacks against law enforcement aircraft, such as drug eradication planes, are not counted. Similarly, attacks against military aircraft, even if carrying civilian passenger loads, or non-military aircraft serving a military function over an area where there is significant fighting, are not counted.

Eleven incidents have been recorded during the past five years in which civil and general aviation aircraft have been fired upon. Eight of these aircraft crashed, killing more than 80 people. Two people were killed in the three incidents in which the plane did not crash. The highest number of fatalities occurred in 1998 when four crashes killed at least 65 people, although exact figures are unknown. Four incidents were recorded in 1994 and 1998; two incidents occurred in 1996 and one in 1995. No incidents were recorded in 1997. Four incidents have been determined to be politically motivated.

More than half of the attacks (six of 11) between 1994 and 1998 occurred in sub-Saharan Africa. Antigovernment rebels are either credited with or believed responsible for the majority of these incidents. The planes crashed in five of the six incidents accounting for nearly all the known fatalities in the five-year period.

1998 was by far the deadliest year of the five-year period. Four aircraft were shot down claiming at least 64 of the 80+ fatalities recorded between 1994 and 1998. Three of the four incidents took place in sub-Saharan Africa. The most fatalities occurred in the Democratic Republic of Congo in October 1998 when at least 40 people were reported killed after antigovernment rebels shot down a plane with a missile. The rebels claimed the plane was bringing government troops and supplies into a war zone, but there were other claims that the plane was evacuating civilians. Two planes were also shot down during fighting in Angola in December 1998, in which at least 24 people died. An unknown number of people were also killed when a helicopter was shot down by rebels in Colombia in October 1998. In one other multi-fatality incident, the

presidents of Rwanda and Burundi and eight others were killed when their plane was shot down in Rwanda in April 1994.

[Image] [14]

OFF-AIRPORT FACILITY ATTACKS

Incidents in this category include attacks against civil aviation assets that are not located within the perimeter of an airport, such as air navigational aid equipment and airline ticket offices. These targets are attractive because they are usually unguarded and/or easily accessible. Thirteen such attacks have been recorded in the past five years. The greatest number of incidents in one year (5) occurred in 1995; the fewest (1) in 1994 and 1998. Three incidents were recorded in both 1996 and 1997.

All but two of the 13 off-airport facility attacks have been against ticket offices. These attacks include bombings (explosives or incendiary devices), attempted bombings, arsons, and various assaults. Aeroflot, Alitalia, and Turkish Airlines interests were each attacked twice in the past five years. Other targets included interests of Air France, Air India, Olympic Airlines, Singapore Airlines, and Swissair. The two non-ticket office attacks included a cut airport transmission line in Pakistan and a bombing of a navigation aid in the United States, both in 1995. Eight of the 13 incidents between 1994 and 1998 took place in Europe; four were recorded in Asia and one in North America.

[Image] [15]

Seven of the 13 incidents are considered politically motivated incidents. Seven of the eight incidents occurred in Europe; the other was in Asia. Three incidents were recorded in Greece, the most for any one country. No group claimed or is believed responsible for more than one attack. Three incidents were recorded in both 1995 and 1997; one incident was recorded in both 1996 and 1998.

ATTACKS AT AIRPORTS

Thirty-six attacks have been recorded at airports throughout the world during the past five years. These attacks include 17 bombings; 10 attempted bombings; and 9 other incidents such as shootings, shellings (artillery or mortar attacks), arsons, and similar incidents. Three incidents were recorded in 1998, one-half of the number recorded the previous year. These three incidents include two bombings (Angola and Colombia) and an attack in which explosive projectiles were fired (Japan). Two people were killed and three injured in the Angola incident, and nine were injured in the Colombia bombing; there were no injuries in the attack in Japan. The most incidents in one year (14) were recorded in 1994; the fewest (3) in 1998. Twenty-one people have been reported killed and more than 120 injured in attacks at airports during the five-year period.

[Image] [16]

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[14] The pie chart graphic which appeared at this point can be seen at: http://cas.faa.gov/crimacts/crim98/15.html.

[15] The pie chart graphic which appeared at this point can be seen at: http://cas.faa.gov/crimacts/crim98/16.html.

[16] The pie chart graphic which appeared at this point can be seen at: http://cas.faa.gov/crimacts/crim98/17.html.

The majority of the attacks in the past five years occurred in Europe (10 incidents). Eight incidents were recorded in Asia, seven in the Latin America and Caribbean region, seven in sub-Saharan Africa, three in Central Eurasia, and one in the Middle East/North Africa region. Worldwide, Colombia recorded the most incidents (5) for any one country in the five-year period. Three incidents were also recorded in both England and Spain during this time.

Twenty of the 36 airport attacks in the five-year period are considered politically motivated incidents. Eight of the 20 incidents were claimed. Among the groups claiming incidents were the Provisional Irish Republican Army, the Basque Fatherland and Liberty, the Revolutionary Worker's Association, the Alex Boncayao Brigade, and the Corsican National Liberation Front. Thirteen of the politically motivated incidents occurred in 1994; three were in 1996, two in 1995, and one each in 1997 and 1998. Colombia was the site of four of the politically motivated incidents; three incidents occurred in England and three in Spain.

The deadliest airport attack occurred in Pakistan in November 1994. Rebels had attacked and seized Saidu Sherif Airport, and at least 15 people died and 17 others were wounded when Pakistani forces counterattacked and regained control of the facility.

COMMANDEERINGS OF CIVIL AVIATION AIRCRAFT

[Image] [17]

Commandeerings occur when the aircraft is on the ground and the doors are open. There is no distinction made between commandeered aircraft that remain on the ground and those which become airborne. The criteria for determining a commandeering as opposed to other on-board situations are the same as those concerning a hijacking. Incidents of commandeered general aviation or charter aircraft are not included in this category.

Nine civil aviation aircraft were commandeered between 1994 and 1998. Four incidents were recorded in 1998, two incidents each were recorded in 1994 and 1997, and one incident was recorded in 1996. There were no commandeering incidents recorded in 1995. Of these nine incidents, the plane remained on the ground in four. The most noteworthy commandeering of the five-year period occurred on December 24, 1994, when four armed terrorists seized an Air France plane in Algiers, Algeria, and took it to Marseilles, France. The incident ended when French commandos stormed the plane and killed the gunmen. Other incidents of note included those in 1998 in the Democratic Republic of Congo (DROC). Three aircraft flying in a war zone were commandeered during fighting between government soldiers and rebels. The planes and their crews were then used to ferry troops and supplies into the war zone.

The Air France incident was the only politically motivated commandeering in the five-year period. One commandeering was committed for personal reasons, one was criminally motivated, and the motives for three others are unknown. The three incidents in the DROC were for military purposes.

[17] The pie chart graphic which appeared at this point can be seen at: http://cas.faa.gov/crimacts/crim98/18.html.

INCIDENTS INVOLVING GENERAL AVIATION/CHARTER AVIATION

[Image][18]

During the past five years, 15 incidents involving general or charter aviation aircraft have been recorded. The majority of the incidents (11) were hijackings, and two were commandeerings. In addition, one instance of an aircraft being deliberately damaged and one robbery were recorded. Six incidents were recorded in 1996, four in 1995, three in 1994, and one in both 1997 and 1998.

The Latin America and Caribbean region recorded the most incidents (5) of any geographic area in the five-year period; Nicaragua and Papua New Guinea both recorded the most incidents (2 each) of any country. The single incident in 1998 was a commandeering in Colombia in which the plane was used to take a rebel guerrilla leader for medical treatment.

APPENDICES

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APPENDIX E

Chronology of Significant Acts Against Civil Aviation In 1998 By Category

	HIJACKINGS	
January 31	Atlantic Airlines	Nicaragua to Costa Rica
February 24	Turkish Airlines	Turkey
March 30	Cyprus Turkish Airlines	Cyprus to Turkey
May 24	Pakistan International Airlines	Pakistan
June 23	Iberia	Spain
July 25	Aviones de Oriente	Venezuela
September 14	Turkish Airlines	Turkey
October 28	Air China	China to Taiwan
October 29	Turkish Airlines	Turkey
	COMMANDEERINGS	
May 10	Air Luxor	Canada
August 2 and 4	Aircraft Commandeerings	Democratic Republic of Congo (Three Incidents)
	AIRPORT ATTACKS	
February 2	Attack—Narita Airport	Japan
October 22	Bombing—Cabinda Airport	Angola
November 25	Bombing—Medellin Airport	Colombia

[18] The pie chart graphic which appeared at this point can be seen at: http://cas.faa.gov/crimacts/crim98/19.html.

Chronology of Significant Acts Against Civil Aviation In 1998 By Category—Continued

	GENERAL/CHARTER AVIATION	
March 12	Charter Aviation Commandeering	Colombia
	OFF-AIRPORT FACILITY ATTACKS	
May 17	Bombing—Olympic Airways Office	Greece
	SHOOTINGS AT AIRCRAFT	
October 10	Shooting at Aircraft	Democratic Republic of Congo
October 27	Shooting at Aircraft	Colombia
December 14	Shooting at Aircraft	Angola
December 26	Shooting at Aircraft	Angola
	INCIDENTS NOT COUNTED *	
January 28	Shooting at Jakarta Airport	Indonesia
February 6	Possible Prevented Hijacking	United States
March 23	Incident on Aircraft	Taiwan
July 2	Arrests of Persons with Explosives at Khartoum Airport	Sudan
August 9	Incident on Aircraft	Russia
October 2	Corporate Aircraft Hijacking	France
November 13	Incident at Atlanta Airport	United States

*These incidents are not included in the statistics for 1998. Because they are of interest, however, summaries are included in the regional areas. It is not to be inferred that these are the only incidents of this type that occurred.

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APPENDIX G *

Politically-Motivated Incidents Involving Civil Aviation, 1994–1998

Date	Incident	Location	Remarks
	1994		
March 7	Attempted Bombing— Cali Airport	Colombia	No claim; possible disruption of elections
March 9	Mortar Attack— Heathrow Airport	England	Claim; Provisional Irish Republican Army (PIRA)
March 11	Mortar Attack— Heathrow Airport	England	Claim— PIRA
March 13	Mortar Attack— Heathrow Airport	England	Claim— PIRA
April 7	Shooting Down Presidential Aircraft	Rwanda	No claim; Rwandan Patriotic Front rebels suspected; assassination
April 27	Bombing— Johannesburg Airport	South Africa	No claim: right-wing extremists suspected
May 1	Arson— Frankfurt Airport	Germany	No claim; leftist extremists suspected

Politically-Motivated Incidents Involving Civil Aviation, 1994–1998—Continued

Date	Incident	Location	Remarks
May 14	Attempted Bombing— Malaga Airport	Colombia	National Liberation Army suspected; possible assassination attempt
July 17	Bombing— Puerto Asis Airport	Colombia	No claim; suspected Revolutionary Armed Forces of Colombia (FARC)
July 17	Bombing— Villa Garzon Airport	Colombia	No claim; suspected FARC
July 19	Bombing— Alas Chiricanas 901	Panama	Claim— Ansar Allah
August 16	Attempted Bombing— Alexandroupolis Airport	Greece	Claim— Turks of Western Thrace
November 3	Attack— Saidu Sharif Airport	Pakistan	Muslim militants; imposition of sharia law
November 3	Hijacking— Scandinavian Airlines System	Norway	Individual; humanitarian aid for Bosnia
November 6	Arson— Frankfurt Airport	Germany	No claim; leftist extremists suspected
November 17	Bombing— Lagos Airport	Nigeria	No claim; possibly anti-President Abacha
December 11	Bombing— Philippines Airlines 434	Philippines	Ramzi Yousef
December 24	Commandeering— Air France 8969	Algeria	Armed Islamic Group members
		1995	
February 21	Shooting at Airlink Aircraft	Papua New Guinea	Bougainville Revolutionary Army suspected
March 26	Attempted Bombing— Singapore Airlines Office	Philippines	Claim— Alex Boncayao Brigade
April 15	Firebombing— Turkish Airlines Office	Austria	Revolutionary People's Liberation Front literature found at scene
May 2	Firebombing— Turkish Airlines Office	Denmark	No claim; Kurdistan Workers' Party (PKK) suspected
May 12	Bombing— Narita Airport	Japan	Claim— Revolutionary Worker's Association
July 29	Attempted Bombing— Alicante Airport	Spain	No claim; Basque Fatherland and Liberty (ETA) suspected
September 3	Hijacking— Air Inter	Spain	Individual— protest against French nuclear tests
		1996	
February 24	Shooting at Cessna Aircraft (Two incidents)	Cuba	Cuban exile group aircraft
March 8	Hijacking— Cyprus Turkish Airlines	Cyprus	Individual— to win sympathy for Chechen separatists
April 28	Bombing— Aeroflot Russian International Airlines Office	Turkey	Claim— Organization for Solidarity with the Turkey Chechen Resistance Fighters
June 6	Bombing— Lusaka Airport	Zambia	No claim; political opposition groups suspected
July 20	Bombing— Reus Airport	Spain	Claim— ETA
October 20	Mortar Attack— Algeria Algiers Airport	No claim; Islamic militants suspected	
		1997	
January 6	Grenade Attack— Madrid Airport	Spain	Claim— ETA

Politically-Motivated Incidents Involving Civil Aviation, 1994–1998—Continued

Date	Incident	Location	Remarks
January 28	Bombing— Air France Office	France	Claim— Corsican National Liberation Front
April 4	Attempted Bombing— Alitalia Office	Greece	Claim— Fighting Guerrilla Formation
October 19	Bombing— Alitalia Office	Greece	Claim— Team of International Revolutionary Struggle
	1998		
February 2	Attack— Narita Airport	Japan	Claim— Revolutionary Worker's Association
February 24	Hijacking— Turkish Airlines	Turkey	Individual; allegedly to protest oppression of Muslims
May 17	Bombing— Olympic Airways Office	Greece	Two claims: May 98 and Fighting Guerrillas of May
May 24	Hijacking— Pakistan International Airlines	Pakistan	Three individuals; to protest nuclear testing
September 14	Hijacking— Turkish Airlines	Turkey	Individual; to protest ban on Islamic clothing
October 29	Hijacking— Turkish Airlines	Turkey	Individual; to protest treatment of ethnic Kurds

*This list includes incidents carried out by perpetrators having known or suspected political motivation. The following principles have been used to compile the list of incidents:

in cases in which the motivation has not been conclusively established, but political motivation is a possibility, the incident has been included;

acts by insurgent groups in open conflict with government forces are included only if they occur outside the theatre of conflict;

acts by individuals or groups carried out purely to improve personal circumstances (e.g., hijackers seeking political refuge in another country) are not included.

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(2) Study and Report to Congress on Civil Aviation Security Responsibilities and Funding, 1998

Report of the Federal Aviation Administration to the United States Congress pursuant to section 301 of the Federal Aviation Reauthorization Act of 1996

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EXECUTIVE SUMMARY

This report is provided to Congress by the Federal Aviation Administration (FAA) in response to the requirement for a study of and report regarding allocating civil aviation security responsibilities established by section 301 of the Federal Aviation Reauthorization Act of 1996 (Public Law 104–264).

The study examines the evolution of aviation security responsibilities and finds that a consensus exists to retain the current system of shared responsibilities. The report does not recommend a transfer of air carrier responsibilities to either airport operators or the Federal Government. As a result, the report does not contain methodologies for such a transfer.

The study recognizes the incremental increases in Federal Government involvement that have taken place and predicts that such increases will continue, perhaps in the field of aviation security training.

The study examines discussions of funding for aviation security and considers a number of views. The report contains options for aviation security funding and states the Administration's position that any FAA activities, including security activities, be derived from charges paid by users of the National Airspace System. The report offers no recommendations in the absence of a consensus on the source of funding. The FAA believes that there should be no change to the current system of shared responsibilities or funding at this time and therefore offers no legislative proposals.

I. BACKGROUND ON THE STUDY AND REPORT

The Federal Aviation Reauthorization Act of 1996 (Public Law 104–264) was approved by the President on October 9, 1996. Title III (AVIATION SECURITY) begins with the following provision:

> "SEC. 301. REPORT INCLUDING PROPOSED LEGISLATION ON FUNDING FOR AIRPORT SECURITY.
>
> (a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration, in cooperation with other appropriate persons, shall conduct a study and submit to Congress a report on whether, and if so how, to transfer certain responsibilities of air carriers under Federal law for security activities conducted onsite at commercial service airports to airport opera-

tors or to the Federal Government or to provide for shared responsibilities between air carriers and airport operators or the Federal Government.

(b) CONTENTS OF REPORT.—The report submitted under this section shall—

(1) examine potential sources of Federal and non-Federal revenue that may be used to fund security activities, including providing grants from funds received as fees collected under a fee system established under subtitle C of title II of this Act and the amendments made by that subtitle; and

(2) provide legislative proposals, if necessary, for accomplishing the transfer of responsibilities referred to in subsection (a)."

In January 1997, the FAA notified the House Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation that this report would be delayed pending receipt of final recommendations from the White House Commission on Aviation Safety and Security (White House Commission). Time would be needed to review and analyze those recommendations and to formulate implementation plans, as appropriate.

The White House Commission recommendations, as well as those of the Aviation Security Advisory Committee (ASAC) Baseline Working Group (BWG), would provide a foundation for the study of responsibilities for security required by the Act. Based on the need to consider the findings of the Commission, the BWG, and the National Civil Aviation Review Commission (NCARC) and the time anticipated to complete analytical work, the FAA notified Congress as indicated above that it would be unable to meet the reporting deadlines specified in the law. However, the FAA pledged to complete the report as expeditiously as possible.

The required elements of the study and report to Congress are as follows:

- Transfer air carrier security responsibilities to airport operators;
- Transfer air carrier security responsibilities to the Federal Government;
- Methodology for the transfer of air carrier security responsibilities to airport operators;
- Methodology for the transfer of air carrier security responsibilities to the Federal Government;
- Methodology for the provision of shared security responsibilities among air carriers and airport operators or the Federal Government;
- Potential sources of Federal and non-Federal revenue to fund security activities; and, if necessary,
- Legislative proposals for the transfer of responsibilities.

The scope of this study is the security of U.S. and foreign air carriers at airports within the United States. International aviation security will be discussed only insofar as it directly relates to the performance of domestic aviation security. A brief review of the responsibilities involved and the system in which they are performed is provided below.

II. The U.S. Aviation Transportation System

The U.S. domestic system is a highly concentrated hub and spoke system that includes 14 of the world's top 20 busiest airports. Ninety-eight percent of all U.S. passengers pass through the 50 busiest hubs. Connection times are down to 25 minutes or less.

Since 1990, annual U.S. air carrier passenger enplanements in the domestic system have increased from 424 million to 523 million in 1996, with 546 million forecast for 1997. The U.S. large commercial aircraft fleet increased from 4,007 in 1990 to 4,916 in January 1997. Including international traffic, systemwide U.S. air carrier enplanements grew from 465 million in 1990 to a forecast of 600 million in 1997. Passengers on U.S. and foreign flag carriers flying to and from the United States increased from 70 million in 1990 to over 100 million anticipated in 1997. Regional and commuter enplanements increased from 37 million in 1990 to a forecast of over 62 million for 1997, while the aircraft fleet increased from 1,819 in 1990 to 2,148 in January 1997. [1]

The basic regulations for aviation security apply to 165 U.S. air carriers, 164 foreign air carriers, and several thousand cargo forwarders at 459 U.S. airports and 244 foreign airports. For example, in fiscal year (FY) 1996, FAA aviation security special agents conducted 6,317 U.S. air carrier inspections both overseas and at home, as well as 643 foreign air carrier inspections at U.S. airports. The FAA performed 870 U.S. airport inspections, 267 facility security inspections, and 123 foreign airport assessments overseas while inspecting indirect air carriers, better known as air freight forwarders, 223 times.

As part of overall civil aviation system security, the FAA is also responsible for protecting nearly 10,000 FAA facilities. Of these, there are about 1,100 FAA facilities, such as control towers at airports and air route traffic control centers, staffed by FAA employees. The protection of these employees, their equipment, and the data and communications they exchange with aircraft in flight is vital to the security and operational integrity of the aviation system as a whole.

III. The Current Aviation Security System

The aviation system within the United States has been on security alert for the past 3 years, and protective measures overseas have been increased and adjusted a number of times over the same period. Increased security measures contained in previously designed contingency plans have been in effect within the United States since the spring of 1995. This is an unprecedented situation.

The events in Asia and the Pacific in 1995, coupled with the destruction of Pan Am Flight 103 in 1988 and the French airline UTA Flight 772 in 1989, remind us that aviation security is an international concern. Even though the threat of terrorism within the United States has increased, the threat still remains greater overseas.

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[1] Federal Aviation Administration, "FAA Aviation Forecasts: Fiscal Years 1997–2008," March 1997, pp. I–1,2,11,13. See also White House Commission on Aviation Safety and Security, "Final Report to President Clinton," Washington, DC, February 12, 1997.

On October 1, 1995, the Secretary of Transportation asked the FAA to direct airports and air carriers within the United States to begin implementation of more stringent measures than those that had been announced by the Secretary just 2 months earlier, on August 9, 1995. Many adjustments to measures have been made in the intervening months.

Stringent security measures have been in place for flights departing the United States for overseas locations for many years. Although the details of the security program cannot be revealed in a published study, it may be stated that all items transported on board commercial passenger aircraft flying overseas have been subjected to security controls. As the President directed in July 1996, air carriers are performing preflight security inspections on all overseas international flights: "every plane, every cabin, every cargo hold, every time."[2]

During 1995 and 1996, the FAA and the Office of the Secretary of Transportation worked through the National Security Council to focus Government attention on the need to revise the domestic aviation security baseline, culminating in the creation by the Aviation Security Advisory Committee (ASAC) of the Baseline Working Group (BWG) on July 17, 1996. The destruction of TWA Flight 800, which followed by only a few hours the BWG's creation, accelerated a process already underway.

The President established the White House Commission on July 25, 1996. A preliminary report by the BWG was completed and provided to the Commission on August 30, 1996, in support of the President's call for an initial Commission report by September 9, 1996. The BWG was able to provide important data and analyses on aviation security to the Commission from its inception to its final report. The final report of the Baseline Working Group was published on December 12, 1996.[3] The White House Commission published its final report on February 12, 1997.[4]

IV. Responsibilities in the Current Aviation Security System

A. FAA Responsibilities

The mission for the FAA in civil aviation security is to protect the traveling public in air transportation throughout the world and provide for the integrity of the civil aviation system. FAA oversees a complex system composed of trained Government and private sector personnel, properly maintained and calibrated equipment, and appropriate procedures to provide multiple layers of security from the airport perimeter to the aircraft.

The Office of the FAA Associate Administrator for Civil Aviation Security develops and implements regulatory policies, programs, and procedures to prevent criminal, terrorist, and other disruptive acts against civil aviation; protect FAA employees, facilities, and

[2] White House Office of the Press Secretary, "Statement by the President at Hangar 12, JFK International Airport," July 25, 1996.

[3] BWG, "Domestic Security Baseline Final Report," Washington, DC, December 12, 1996, pp. 78–79. This report contains sensitive information and is not available to the public. It is subject to the provisions of 14 CFR part 191. No part of it may be released without the express written permission of the Associate Administrator for Civil Aviation Security (ACS–1), Federal Aviation Administration, Washington, DC 20591.

[4] White House Commission on Aviation Safety and Security, "Final Report to President Clinton," Washington, DC, February 12, 1997, p. 27.

equipment; ensure FAA employees' suitability to serve in positions of trust; ensure the safe transportation of hazardous materials by air; assist in interdicting unlawful drugs and narcotics coming into the United States; and support national security.

The FAA is responsible for establishing and enforcing regulations, policies, and procedures; identifying potential threats and appropriate countermeasures; deploying Federal Air Marshals on selected U.S. air carrier flights; and providing overall guidance to ensure the security of passengers, crew, baggage, cargo, and aircraft. FAA personnel monitor and inspect air carrier and airport security, taking compliance and enforcement measures, such as finding violations and assessing civil penalties when necessary to maintain discipline in the system.

The FAA also has a responsibility to protect its own assets, thereby contributing to the maintenance of the safety and security of the commercial aviation system. FAA facility and National Airspace System security issues support the ability of the FAA to accomplish its mission. These latter security responsibilities are among those addressed by the President's Commission on Critical Infrastructure Protection, which was established in July 1996,[5] and published its final report in October 1997.[6]

In addition, the FAA must ensure that designated personnel at air route traffic control centers, terminal radar approach control facilities, and other staffed facilities are properly trained and equipped in matters related to security and that they meet the standards of integrity necessary for them to perform their security duties in support of the National Airspace System. Security is taken into account during the design and refurbishment of FAA facilities. The FAA strives to provide for effective air traffic control voice and data communications security, and ensure effective navigation system security, including that of the Global Positioning System.

The Office of the Associate Administrator for Civil Aviation Security maintains close ties to its customers: private sector air carriers; State and local governments and airport authorities; facility and air traffic control elements of FAA; and the traveling public. The current organizational structure is the result of exhaustive review and analysis by many entities since 1989. Many functions are codified in law. In addition to policy, intelligence, and operations functions, the organization's work includes aviation security training at the FAA's Mike Monroney Aeronautical Center, Oklahoma City, and the responsibility for guiding the aviation security research and development program conducted at the FAA's William J. Hughes Technical Center, Atlantic City.

The Office of Intelligence and Security in the Office of the Secretary of Transportation coordinates security and intelligence within the Department of Transportation.[7] Consultation and coordination between the Associate Administrator for Civil Aviation Security and the Director of the Office of Intelligence and Security is

[5] Executive Order 13010 of July 15, 1996, Critical Infrastructure Protection, 61 Fed. Reg. 37347 (1996).

[6] The Report of the President's Commission on Critical Infrastructure Protection, "Critical Foundations: Protecting America's Infrastructures," Washington, DC, October 13, 1997.

[7] Section 101 of the Aviation Security Improvement Act of 1990, Public Law 101–604, November 16, 1990.

close and continuous.[8] Cooperation among modal security elements has been encouraged and improved by the formation of a Department of Transportation Security Working Group under the leadership of the Director of the Office of Intelligence and Security.

The FAA's Office of Civil Aviation Security Intelligence provides intelligence analysis of the threat to civil aviation as the basis for determining the application of aviation security measures. This is accomplished by synthesizing intelligence and threat information into products such as security directives, information circulars, and threat assessments. These products are needed by the operations and planning offices for ruling on carrier amendments to approved security programs, determinations of foreign airport security effectiveness, and support in changing regulations. The highest level of security is applied in specific situations when there is credible and specific threat information. The FAA, in consultation with the aviation industry, has developed contingency plans that make it possible to implement only those security measures applicable to specific threat situations.

The Office of Civil Aviation Security Intelligence receives and analyzes all information regarding potential or direct threats to civil aviation. The information can be original or from other centers of analysis, classified and open source. It comes from agencies of the U.S. intelligence and law enforcement communities, foreign government authorities, and private sector elements. To keep abreast of rapidly changing threat situations worldwide and to determine their relevance to civil aviation, FAA intelligence analysts stay in contact with their counterparts in other agencies and with FAA special agents in field offices. Decisions to impose additional security measures result from coordinated effort among operations, policy, and intelligence specialists, U.S. and foreign air carriers, and airport operators.

Aviation security threat information and additional security requirements are disseminated to U.S. airlines and airports by official FAA communications called "information circulars" and "security directives," respectively, under section 108.18 of the Federal Aviation Regulations (14 CFR § 108.18), as well as other written and oral communications. The Department of State, pertinent U.S. Embassies, foreign government security officials, and others may also receive these communications. FAA information is passed to airline crews by their companies. If a specific and credible threat cannot be thwarted and security measures cannot counter it, either the specific flight(s) will be canceled or public notification will be made by both the Department of Transportation (DOT) and the Department of State for international flights, or by DOT for domestic flights.

Finally, to review FAA's responsibilities in customer service terms, the services listed on the next page are those provided by the FAA to industry in the field of aviation security.

[8] Id., section 103.

TABLE I

The FAA's Responsibilities for Aviation Security
• Establish and enforce aviation security and hazardous materials regulations, policies, and procedures; • Approve security programs and amendments to those programs; • Identify threats and appropriate countermeasures; • Provide guidance and assistance to ensure the safety and security of passengers, crew, baggage, cargo, and aircraft, particularly during times of increased threat; • Chair the Aviation Security Advisory Committee, an advisory body whose membership is drawn from the aviation industry, consumer advocacy and citizen's groups, unions, and U.S. Government agencies; • Determine requirements, conduct aviation security research and development, and provide assistance to equipment manufacturers; • Test, evaluate, and approve security equipment and certify explosives detection systems; • Provide funding and support for the canine explosives detection program; • Provide aviation security technical assistance, advice, education, and training; • Conduct foreign airport security assessments and make recommendations to foreign authorities for improvements; • Deploy Federal air marshals on selected U.S. air carrier flights; and • Represent U.S. aviation security interests abroad, including those of industry, in negotiations and discussions with foreign governments, air carriers, airport authorities, and international organizations.

These services enhance the overall security posture of U.S. air carriers through deterrence and many other ancillary benefits not directly related to terrorism prevention or Federal regulations.

B. AIR CARRIER AND AIRPORT RESPONSIBILITIES

Air carriers bear the primary responsibility for applying security measures to passengers, service and flight crews, baggage, and cargo. Airports, run by State or local government authorities, are responsible for maintaining a secure ground environment and for providing law enforcement support for implementation of airline and airport security measures.

There are about 100 entities conducting screening at airports in the United States. These include units conducting screening at small airports, air carriers that conduct their own screening, and

the large screening companies.[9] Five of the largest screening companies employ approximately 64 percent of the estimated 18,000 screeners nationwide. At least 16 different companies, including 2 air carriers, conduct screening at the 19 Category X[10] airports.

The baseline security required of air carriers and U.S. airport operators represents an effort to match the level of security with FAA's best estimate of the level of threat. The goal is to allocate industry and government resources efficiently to protect the critical entity, commercial air carrier operations. The Aviation Security Contingency Plan allows the FAA and the aviation industry to respond promptly to security emergencies, focusing on those measures that effectively counter threats while taking into account local conditions. Any change in the prevailing threat must be addressed by an adjustment to the baseline.

V. Discussion of Responsibilities and Costs in the Current Aviation Security System: An Examination of the Mandate

When hijacking was an all too frequent occurrence in the late 1960's and 1970–71, air carriers voluntarily cooperated with the Federal Government on measures to counter the threat, but not without some concern. One history describes the situation at the time as follows:

> "The airlines as a group had consistently argued that combatting hijacking and airport security were largely Federal responsibilities. They had therefore fought for Federal operation and payment for anti-hijacking programs. The airlines were especially unhappy about the prospect of their employees physically searching passengers or engaging in any other activities normally assigned to law enforcement officials. Most were, therefore, pleased with the infusion of Federal agents under the sky marshal program. When it became clear that security systems would have to be extended to virtually all of their boarding areas, the airlines began an intensive lobbying campaign for an expansion of the existing Federal security force to handle the operation."[11]

For 25 years, the executive branch of the Federal Government has maintained that providing security is a cost of doing business, which should be borne by the air carriers and airports just as they bear the cost of ensuring safe operations. The most authoritative

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[9] An Advance Notice of Proposed Rulemaking (ANPRM) on Certification of Screening Companies was published in the "Federal Register" at 62 Fed. Reg. 12724 (1997) on March 17, 1997; the comment period closed on May 1, 1997. Comments were received and analyzed, a draft NPRM prepared, and concurrence scheduled for February 20, 1998. The critical element in this process is having a reliable and consistent way to measure actual screening performance. It was decided to add more specific screening improvements to the rule based on data gathered by threat image projection (TIP) systems. On March 4, the FAA decided to withdraw the ANPRM, and a notice to that effect was published on May 13, 1998. Special evaluations by field agents are being conducted to validate data gathered by TIP. Results in 1998 were promising; the NPRM should be published in 1999.

[10] Category X airports are generally among the busiest and most complex of all U.S. airports. Category I airports are also among the busiest airports, followed by progressively smaller airports in Categories II, III, and IV. The precise definitions of each category and the identification and location of airports within each category are sensitive information subject to the provision of 14 CFR § 191.1 et seq.

[11] Kent, Richard J., Jr., "Safe, Separated and Soaring: A History of Federal Civil Aviation Policy 1961–1972," U.S. Department of Transportation, Federal Aviation Administration, 1980, pp. 349–50.

statement of this position was recorded during the hearings in February and March 1973, which led to amendments to the Federal Aviation Act of 1958, now codified in title 49, United States Code. These amendments were contained in two related titles of Public Law 93–366: title I—the Antihijacking Act of 1974, and title II—the Air Transportation Security Act of 1974.

In those hearings, the views of a high-ranking Transportation Department official clearly indicated that the users of civil aviation should bear its costs, and those costs explicitly included those derived from the application of security measures. [12]

A. AVIATION SECURITY, NATIONAL SECURITY, AND TERRORISM

In 1986, a new aspect emerged in the executive branch's views on the cost of dealing with terrorism. In the 1986 report of his task force on terrorism, then Vice President George Bush asserted that the United States views terrorism as a threat to the national security. [13] A logical evolution of this view may lead to the conclusion that the Federal Government should be responsible for the costs of combating terrorism, just as it pays for the cost of providing for the common defense of the Nation.

In the late 1980's, a former Administration official extended this view further, including "freedom of the air," meaning the maintenance of civil aviation security, as a vital national interest. [14]

Several years later, Senator Lautenberg, who had been a member of the post-Pan Am Flight 103 President's Commission on Aviation Security and Terrorism, expressed similar views in his opening statement at a hearing of the Senate Commerce, Science, and Transportation Committee on August 1, 1996:

> "Congress, our Nation's airlines, and our airports have been unwilling to make the investments necessary to protect the public. Terrorism is an act of war against an entire nation, with civilians on the tragic front lines, and we have got to confront it with the same commitment and fervor that we must reserve for other threats to our national security." [15]

Ambassador Morris Busby, former U.S. Coordinator for Counterterrorism at the Department of State, agreed during testimony at the same hearing, saying:

> ". . . the idea that aviation security is a national security issue has received a lot of support around this room today, and I am absolutely 100 percent in support of that." [16]

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[12] "Anti-Hijacking Act of 1973": Hearings on H.R. 3858, H.R. 670, H.R. 3953, and H.R. 4287 (and all identical or similar bills) before the Subcommittee on Transportation and Aeronautics, House Committee on Interstate and Foreign Commerce, 93rd Cong. 222 (1973) (statement of Hon. Egil Krogh, Jr., Under Secretary, Department of Transportation), February 27, 1973. See also Kent, *supra* note 11.

[13] Bush, George, "Public Report of the Vice President's Task Force on Combatting Terrorism," Washington, DC, February 1986, p. 7.

[14] "The Bombing of Pan Am Flight 103: A Critical Look at American Aviation Security": Hearings before the Subcommittee on Government Activities and Transportation of the House Committee on Government Operations, 101st Cong. 34 (1989) (statement of Mr. Noel Koch, President, International Security Management, Inc.).

[15] "Aviation Security": Hearings before the Senate Committee on Commerce, Science, and Transportation, 104th Cong. 13 (1996) (statement of Senator Lautenberg).

[16] Id., p.86 (statement of Morris D. Busby, President, BGI Inc.).

President Clinton and members of his Administration have recently made statements of policy indicating that the security of civil aviation should be treated as a matter of national security. In a speech at George Washington University on August 5, 1996, President Clinton stated:

> "We cannot reduce the threats to our people without reducing threats to the world beyond our borders. That's why the fight against terrorism must be both a national priority and a national security priority. We have pursued a concerted national and international strategy against terrorism on three fronts: First, beyond our borders, by working more closely than ever with our friends and allies; second, here at home, by giving law enforcement the most powerful counterterrorism tools available; and, third, in our airports and airplanes by increasing aviation security." [17]

On September 9, 1996, when receiving the initial report of the White House Commission on Aviation Safety and Security from Vice President Gore, the President reiterated this theme by saying:

> "We know we can't make the world risk-free, but we can reduce the risks we face and we have to take the fight to the terrorists. If we have the will, we can find the means. We have to continue to fight terrorism on every front by pursuing our three-part strategy: First, by rallying a world coalition with zero tolerance for terrorism; second, by giving law enforcement the strong counterterrorism tools they need; and, third, by improving security in our airports and on our airplanes." [18]

The White House Commission, in recommendation 3.1 of its final report, stated:

> "The federal government should consider aviation security as a national security issue, and provide substantial funding for capital improvements. The Commission believes that terrorist attacks on civil aviation are directed at the United States, and that there should be an ongoing federal commitment to reducing the threats that they pose." [19]

In section 314 of the Federal Aviation Reauthorization Act of 1996 (Public Law 104–264), the Senate appears to endorse these views, stating the "Sense of the Senate Regarding Acts of International Terrorism." After finding that ". . . there has been an increase in attempts by criminal terrorists to murder airline passengers through the destruction of civilian airliners and the deliberate fear and death inflicted through bombings of buildings and the kidnapping of tourists and Americans residing abroad," section 314 states:

> "It is the sense of the Senate that if evidence establishes beyond a clear and reasonable doubt that any act of hostility towards any United States citizen was an act of international

[17] White House Press Release, "Remarks by the President on American Security in a Changing World," at George Washington University, Washington, DC, August 5, 1996.

[18] White House Press Release, "Remarks by the President during White House Commission on Aviation Safety Announcement," the Oval Office at the White House, September 9, 1996.

[19] White House Commission, "Final Report to President Clinton," Washington, DC, February 12, 1997, p. 27.

> terrorism sponsored, organized, condoned, or directed by any nation, a state of war should be considered to exist or to have existed between the United States and that nation, beginning as of the moment that the act of aggression occurs."[20]

Again, the President's words are reflected in the White House publication, *A National Security Strategy for a New Century*:

> "We further seek to uncover, reduce or eliminate foreign terrorist capabilities in our country; eliminate terrorist sanctuaries; counter state-supported terrorism and subversion of moderate regimes through comprehensive program of diplomatic, economic and intelligence activities; improve aviation security worldwide and at U.S. airports; ensure better security for all U.S. transportation systems; and improve protection for our personnel assigned overseas."[21]

B. AVIATION SECURITY AND OTHER CRIMINAL ACTS

Given that aviation security measures are designed to prevent acts of terrorism and thereby enhance national security, the Federal Government implicitly accepts increased responsibility for improving aviation security. Nevertheless, it is important to remember when discussing who should be responsible for security, that criminal acts against civil aviation are not committed exclusively by terrorists. Most crimes against civil aviation have been committed by mentally deranged persons, or fugitives and would-be refugees who resorted to hijacking only as a means of transportation with no clear intention of harming the aircraft or its occupants. Others are more deadly.

In 1955, a United Airlines aircraft disintegrated in flight 11 minutes after takeoff near Longmont, Colorado. A dynamite bomb detonated in a baggage compartment, Killing 39 passengers and 5 crew. One J. Graham was arrested, tried, and executed for the crime, for which the motive was insurance fraud.[22] Another incident of sabotage over Bolivia, North Carolina, in early 1960 killed 34 passengers and crew and was also related to insurance fraud. A ceiling on the amount of airline trip insurance passengers can purchase was imposed, and baggage screening was improved. Domestic airline sabotage declined until there were no fatal incidents in the 1970's.[23]

Air carriers also must counter other crimes unrelated to terrorism, such as theft and fraud.[24] Air carriers" security interests are inherently broader than the prevention of terrorism, and their security programs deal with more than is required by Federal Aviation Regulations.

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[20] Section 314 of the Federal Aviation Reauthorization Act of 1996, Public Law 104–264, October 9, 1996.

[21] The White House, "A National Security Strategy for a New Century," May 1997, p.10.

[22] President's Commission on Aviation Security and Terrorism, "Report to the President," Washington, DC, May 15, 1990, p.160.

[23] Rochester, Stuart I., "Takeoff at Mid-century: Federal Civil Aviation Policy in the Eisenhower Years 1953–1961," U.S. Department of Transportation, Federal Aviation Administration, Washington DC, 1976, pp. 262–3 & 275.

[24] President's Commission on Aviation Security and Terrorism, *supra* note 22, 1990, p. 46.

VI. The Transfer of Air Carrier Security Responsibilities to Airport Operators

A. EARLY DISCUSSIONS, DEBATES, AND DIRECTIONS: 1960–1990

From the first implementation of security screening, nearly everyone agreed that the screening of passengers should be a responsibility of the airlines. In 1969, Eastern Air Lines voluntarily agreed to an FAA test of an "operational screening system for boarding airline passengers" with "weapon-detection devices" used in conjunction with "FAA's evolving psychological profile to identify and isolate suspicious individuals for further surveillance or search."[25] Eastern was joined later in that year by TWA, Pan Am, and Continental in "using the screening system."[26] The sharing of the costs of passenger screening was then and has continued to be a topic of debate and divided opinions.

A solution found in 1972 was to require air carriers to provide screening personnel and the airport operators to provide law enforcement support. In the 93rd Congress, 1st Session, Senator Cannon, Chairman of the Aviation Subcommittee of the Senate Committee on Commerce, introduced the "Air Transportation Security Act of 1973" as S.39, "A Bill to amend the Federal Aviation Act of 1958 to provide a more effective program to prevent aircraft piracy and for other purposes."[27] The Air Transportation Security Force proposal in S.39 envisioned Federal law enforcement officers as supporting air carrier screeners, not performing the screening functions themselves. They would only search after a bag or person alarmed a metal detection device and then only after consent was given. Everyone participating in the hearings seemed to believe that many more than 5,000 Federal agents would be needed to perform all functions envisioned. The airlines supported S.39.

Most of the arguments against a Federal force revolved around the philosophy of federalism; that this was a State and local police protection function. In his statement before the Aviation Subcommittee of the Senate Commerce Committee on January 10, 1973, then Secretary of Transportation John Volpe said:

> "To require the creation of a new Federal police force for the sole purpose of satisfying the security needs at airports, regardless of their size and level of operations is unnecessarily costly and wasteful. . . . The FBI will exhaustively investigate all air piracy incidents and subsequently bring to justice all violators. On the other hand, we do not feel the Federal Government should get into the day-to-day crime prevention business at our airports. This should properly be managed by local law enforcement officers."[28]

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[25] Kent, Richard J., Jr., "Safe, Separated and Soaring: A History of Federal Civil Aviation Policy 1961 - 1972," U.S. Department of Transportation, Federal Aviation Administration, Washington, DC, 1980, p. 338. The recommendations and the test were devised by the FAA Task Force on Deterrence of Air Piracy, created by Acting Administrator Dave Thomas on February 17, 1969.

[26] Id., p. 340.

[27] S.39 was introduced on January 4, 1973. Senator Cannon then noted that there were more than 1,700 Federal security officers on duty at U.S. airports.

[28] "Emergency Antihijacking Regulations": Hearings before the Aviation Subcommittee of the Senate Committee on Commerce, 93rd Cong. 75 (1973) (statement of Hon. John A. Volpe, Secretary of Transportation).

None of the arguments suggested that there was a "national security" aspect to aviation security. While there were 134 domestic hijackings between 1961 and 1972, and 7 explosions aboard commercial aircraft between 1955 and 1976 in the United States, these domestic security incidents did not contain clearly "terrorist" elements until a hijacking at LaGuardia Airport in September 1976. A group called "Fighters for Free Croatia" hijacked a TWA flight bound for Chicago. After stops in Montreal, Quebec; Gander, Newfoundland; and Iceland for refueling, they dropped leaflets over London and Paris, landed in Paris and surrendered.[29] Ironically, the perpetrators believed that security screening was tight at LaGuardia and decided to use simulated explosives made from material smuggled on board rather than traditional weapons, which probably would have been discovered. The group met the profile and triggered more than usual rigorous searching. The ruse was bolstered by a genuine bomb that had been planted in a New York subway locker; the hijackers notified police, and the bomb exploded during examination.[29]

The 1980's saw a change in the nature of criminal acts against aviation. Hijacking, seemingly the preferred form of criminal and terrorist activity, was joined once again by the placement of explosive devices aimed at the total destruction of aircraft, passengers, and crew. The vast majority of criminal and terrorist acts against civil aviation during this decade occurred overseas rather than in the United States. The decline in hijacking may have been due to more effective security at airports.[31] The events of the 1980's may have stimulated some observers to suggest a large role for airport operators in aviation security. Still others disagreed.

The hearings of the House Subcommittee on Government Activities and Transportation on September 25, 1989, allowed for the presentation of opposing views about the security roles of air carriers and airport operators. Speaking to Isaac Yeffet, former Director of Security of El Al Airlines, then Congresswoman Boxer said:

> "Mr. Koch says in his testimony-and I am quoting—'The carriers should be responsible for safety, and they are. They do it superbly. Security is a separate problem far beyond their competence, and it shows.' He goes on to say that what we need to do-and I am quoting—'The terminal operator ought to have at least as large, if not a larger responsibility for security than the carriers.' Do you agree with that?"

Mr. Yeffet replied:

> "No. I disagree. I believe the airlines must be responsible for the security. They have to get help from the government by asking them what kind of procedures we have to follow; some-

[29] St. John, Peter, "Air Piracy, Airport Security, and International Terrorism," Quorum Books, New York, Westport, Connecticut, and London, 1991, p. 31.

[30] Preston, Edmund, "Troubled Passage: The Federal Aviation Administration During the Nixon-Ford Term 1973–1977," U.S. Department of Transportation, Federal Aviation Administration, 1987, pp. 215–17. This incident should not be confused with the self-service baggage locker bombing at LaGuardia Airport in New York on December 29, 1975. See also: Moore, Kenneth C., "Airport, Aircraft, and Airline Security," Second Edition, Butterworth-Heinemann, a division of Reed Publishing (USA), Inc., Boston, London, Oxford, Singapore, Sydney, Toronto, and Wellington, 1991, pp. 28, 165, and 389.

[31] Simon, Jeffrey D., "The Terrorist Trap: America's Experience with Terrorism," Indiana University Press, Bloomington and Indianapolis, 1994, pp. 349–50 and 396–99.

> body has to teach the airlines how to build a security system if they don't know how. But it is their business as they run their airlines to make sure that the flight will always remain safe and secure, and not to think that somebody else has to run their security." [32]

The continuation of the debate and the diversity of views on the delineation of responsibilities for security between air carriers and airport operators prompted a reexamination of the issues by the FAA in 1991.

B. FAA STUDY ON THE TRANSFER OF SECURITY RESPONSIBILITIES: 1991

An unpublished FAA study evaluated three alternatives for a shift in security responsibilities with respect to passengers, baggage, and cargo from the air carriers to airport operators to determine whether or not any alternative was likely to improve performance. The basic framework and content of the study, including conclusions reached at that time, are presented at appendix A without substantive modification. The options examined in 1991 reflect alternatives to the system then in place, and are reiterated in this paper as they were written in 1991. Most elements of these options remain valid today.

The study concluded that the system in 1991 was well understood and accepted by most major participants. Although the system had both pros and cons, it was fundamentally effective and efficient. While the study saw advantages to each of the three alternatives, there were also considerable disadvantages to shifting any of the major security functions from the air carriers to airport operators. The study concluded that there did not appear to be a net benefit in adopting any of the alternatives over the system current at the time. Consequently, it was recommended that the current system be continued. However, in recognition of the need for further analysis to study ways that the security system might be improved, the study recommended that the FAA consider running a trial at a selected domestic airport to test the viability of transferring certain security functions, particularly the screening checkpoints, from air carriers to the airport authority.

C. AIRPORT OPERATORS' VIEWS: 1996

In his testimony before the White House Commission on Aviation Safety and Security on September 5, 1996, Richard Marchi, Senior Vice President for Technical and Environmental Affairs for the Airports Council International-North America (ACI-NA), speaking for his organization and for the American Association of Airport Executives (AAAE), presented the airport operators' opinion when he stated:

> "An important underlying aspect of controlling passenger flow and suspect baggage is continuity. The first point of contact is provided by airline agents at the check in point. Airline agents currently use a battery of relevant information to determine if a passenger or their baggage should be subjected to a more in-

[32] "The Bombing of Pan Am Flight 103: A Critical Look at American Aviation Security": Hearings before the Subcommittee on Government Activities and Transportation of the House Committee on Government Operations, 101st Cong. 56 (1989).

tense screening regime. This information is provided by the intelligence community and FAA directly to the airline security personnel, thus limiting the information to those with the quote-need to know-unquote and facilitating the dissemination of information to those employees who will be responsible for implementing the selection process. It is at this point that a suspect passenger and their baggage, either carry on or checked, can be removed from the standard screening process and subjected to more intense scrutiny. By interposing another controlling entity—an airport or federal employee—into the midst of the check-in process continuity is lost, and the suspect person and/or their baggage would have the opportunity to evade security control measures such as a positive passenger/baggage match. Currently, if a passenger is determined to be a risk, that individual is escorted to the gate and remains under the control of an agent until he boards the aircraft. That passenger's checked baggage is scrutinized and is placed aboard the aircraft only when the passenger boards. This system works because a single entity—in this case, the airline—is responsible for controlling all aspects of that passenger's screening process. If airport or federal government employees were to become responsible for effective screening of suspect passengers and/or baggage, they would multiply the number of points in the system where there must be a hand-off of responsibility and, in turn, multiply the number of opportunities for a miscue."[33]

Finally, moving responsibilities from air carriers to airport authorities could present a number of difficulties. An attempt had been made to exempt aviation safety and security from the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), but the attempt failed.[34]

A certain percentage of Airport Improvement Program (AIP) grant money from the Airport and Airway Trust Fund is allocated by airport authorities for security measures. Under current law, air carriers are ineligible for such grant funding.[35] A legislative approach to this issue could be to permit AIP funds to be used by air carriers for security purposes, a solution unlikely to be supported by airport operators.

Again, Mr. Marchi, speaking for airport operators:

"While airports appreciate the provision found in H.R. 3953 expanding Passenger Facility Charge (PFC) and Airport Improvement Program (AIP) eligibility to help pay for explosive detection equipment and operational costs for activities to enhance aviation security, this departure from current PFC and AIP eligibility, which restricts these funds to capital improvements, should not be undertaken lightly. The use of Trust Fund resources for on-going and growing operating expenses puts

[33] Statement of Richard F. Marchi before the White House Commission on Aviation Safety and Security, Washington, DC, September 5, 1996.

[34] 141 Cong. Rec. H509-H512 (January 23, 1995). Representatives Mineta and Oberstar strongly supported Representative Collins' amendments Nos. 69 and 70, which were defeated 169 to 256.

[35] Section 308 of the Federal Aviation Reauthorization Act of 1966 (P.L. 104–264) may modify air carries eligibility.

these operations at grave risk when the inevitable Federal cost-cutting ax falls on DOT/FAA/Airport appropriations. And, while expanded eligibility may be helpful at the margins, it will only have real benefit if additional AIP funds are made available and the federal cap on PFCs is lifted. We need to remember that airport security investments are among the multitude of airport capital improvement programs that we have estimated will require at least $10 billion a year through the year 2002. (Source: ACI-NA/AAAE 1996 Capital Needs Survey.) AIP funding for airports has suffered major reductions, from $1.9 billion annually to only $1.45 billion, currently. Congress must address the need to invest in our nation's airports to provide greater capacity, safety and security for air travelers—by giving airports the means to generate needed funding through the time-tested and effective local Passenger Facility Charge program. For smaller airports, we must be willing to consider new options for providing the necessary investment."[36]

VII. The Transfer of Air Carrier Security Responsibilities to the Federal Government

Few have recommended the transfer of screening and other air carrier responsibilities to the Federal Government.[37] As stated in the next section on shared responsibilities, the BWG clearly opposed the transfer of air carrier responsibilities to the Federal Government for many of the same reasons raised over 20 years ago. Since the failure of their arguments in 1970–71 to transfer responsibility in this manner, the air carriers have repeatedly expressed the desire to retain screening duties and have opposed their transfer to "government" personnel, primarily so that airlines can facilitate passenger movement and better control customer services.

In testimony submitted to the Senate Aviation Subcommittee on January 9, 1973, Paul Ignatius, Executive Vice President of the Air Transport Association (ATA), wrote:

> "The airlines have consistently taken the position that law enforcement is a government responsibility. First, the behavioral profile is an important aspect of the screening process and this must be handled by airline personnel and coordinated with the metal-detecting operations. Secondly, the screening process must be carried out as part of the boarding of passengers. The airlines must be responsible for timely boarding and would lack the necessary control over it if the screening process were operated by government personnel."[38]

Senator Hollings expressed a different view over 20 years later in his prepared statement for the aviation security hearing of the Senate Commerce, Science, and Transportation Committee on August 1, 1996:

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[36] Statement of Richard F. Marchi, *supra* note 33.

[37] One such discussion is in Nader, Ralph and Smith, Wesley J., "Collision Course: The Truth about Airline Safety," TAB Books, a division of McGraw-Hill, Inc., Blue Ridge Summit, Pennsylvania, 1994, pp. 230–31.

[38] "Emergency Antihijacking Regulations": Hearings before the Aviation Subcommittee of the Senate Committee on Commerce, 93rd Cong. 167 (1973) (statement of Paul Ignatius, ATA).

> ". . . the public deserves the best technology operated by the best trained individuals, to reduce the risks of a terrorist attack. Another thing is clear-security is going to be costly. The Federal Aviation Administration (FAA) has estimated that it will cost as much as $2.2 billion to install up to 1,800 machines at 75 airports. The FAA should be authorized to collect a fee to pay for the machines. Today, there are approximately 14,000–18,000 screeners, paid an average of $10,000 to $15,000 per year. These screeners are one line of defense, but a critical one in the fight against terrorism. They need training, and they need to be paid in accordance with their responsibilities. The present turnover rate among these employees is extremely high. Unless we change the way we provide security, we cannot upgrade it . . . I am considering whether the FAA should provide the screeners, thereby relieving the air carriers of this responsibility; this also will cost money." [39]

In contrast, and also on August 1, 1996, Senator McCain, speaking about legislation that became the FAA Reauthorization Act (which requires this study) during the Senate hearing, said that the bill would:

> ". . . require the FAA to study whether airports should be responsible-or who should be responsible-for airport security functions. We are in agreement, and the airlines are in agreement, that it should not be the airlines that are responsible for the security, especially passenger security." [40]

In his prepared statement, Senator McCain broadened the mandate by saying that the legislation would: "require FAA to study whether airports should be responsible for most or all security functions. . . ." [41]

Captain J. Randolph Babbitt, president of the Air Line Pilots Association, before the White House Commission on September 5, 1996, offered yet another alternative when he said:

> "We believe the FAA's role in overseeing aviation security should be reviewed by the Commission, with a view toward making certain of its responsibilities a function of the Department of Justice. The establishment of aviation security policy and procedures by law enforcement professionals within the DOJ, working with their own intelligence officers, would enhance the ability of the U.S. to quickly adapt security measures to new and changing threats." [42]

Captain John J. O'Donnell, then president of the Air Line Pilots Association, accompanied at the Senate Aviation Subcommittee hearing on January 9, 1973, by two pilots who had been hijacked, supported the then current division of responsibilities, but for a different reason and with a significant caveat:

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[39] "Aviation Security": Hearings before the Senate Committee on Commerce, Science, and Transportation, 104th Cong. 93 (1996) (statement of Senator Hollings).
[40] Id., p. 9. (statement of Senator McCain).
[41] Id., p. 10.
[42] Statement of Captain J. Randolph Babbitt, president, Air Line Pilots Association, before the White House Commission, Washington, DC, September 5, 1996.

"This committee is well aware of the action taken recently by the Secretary of Transportation which makes airport authorities and the airlines responsible for passenger screening, carry-on baggage search and the presence of law enforcement officers. We concurred in that action because little else was being done to develop airport security. However, we are greatly concerned that the fragmentation of responsibility will mean that training will be inconsistent, equipment maintenance will become lax and monitoring of the law enforcement presence will be subject to the whims of local government and airline budgets. The overall responsibility for the air transportation security system should be at a high governmental level in order to give consistency of training and competency to the total system." [43]

A. SCREENING OVERSEAS

Two significant questions are who would perform screening overseas when foreign entities are incapable or their performance is insufficient, and who would perform such (sometimes redundant) screening in any case? The most logical answer would be the air carriers, as now required by the FAA of U.S. air carriers in such cases. Even if carriers cease doing screening in the United States, they will most likely continue to do redundant screening [44] abroad as required by FAA regulations.

Foreign governments are willing to let private sector entities do redundant screening, but are loathe to allow foreign government employees to perform the same function. A request to foreign governments to allow U.S. Federal Government employees to perform screening overseas would most likely be rejected as an infringement on the national sovereignty of the host governments. Therefore, even if the Federal Government assumed air carrier responsibilities within the United States, air carriers would still need to develop and maintain expertise to perform screening services overseas.

The only Federal assistance that might be agreeable to foreign governments would perhaps be more civil aviation security liaison officers stationed at or near each airport to assist in the interface with foreign governments. The responsibility for the effective and efficient performance of screening functions would have to remain with either the host government or the air carriers.

B. ECONOMIC CONSIDERATIONS

The argument against Federal Government responsibility for security screening overseas is primarily legal or jurisdictional in nature. The argument against the Federal Government assuming air carrier security responsibilities at home contains some of those same concerns but major economic considerations as well.

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[43] "Emergency Antihijacking Regulations": Hearings before the Aviation Subcommittee of the Senate Committee on Commerce, 93rd Cong. 187 (1973) (statement of Captain John J. O'Donnell, president, Air Line Pilots Association).

[44] "Redundant screening" refers to any additional or secondary screening that may be required after a passenger passes through a primary screening checkpoint, but prior to boarding the aircraft.

There are approximately 18,000 screeners working for over 100 entities, including air carriers and screening companies. These individuals would be the minimum number hired as Federal Government employees or as contract employees if the Federal Government chose to "contract out" security services currently provided by air carriers.

Provision for Federal Government screening personnel costs alone could exceed a half billion dollars a year. If costs for training are added to those operational costs, then combined with advanced security equipment procurements under the Facilities and Equipment account and research and development costs, the total could approach a billion dollars a year. Whether financed by the U.S. Treasury's General Fund as a national security expenditure or through the Airport and Airway Trust Fund as a cost of doing business or traveling, that is a substantial amount of money that the Federal Government would have to expend to assume air carrier screening responsibilities.[45]

On the other hand, a major benefit could be an increase in the professionalism of the security screening work force if sufficient funds were made available to conduct proper training for them at centralized locations; e.g., at the FAA Academy, in Oklahoma City.

Recent FAA personnel reform measures may allow for the creation of a professional FAA security screening force with career paths, appropriate compensation, a variety of assignments, and a sense of service commensurate with their responsibilities. Another perhaps more practical possibility could be the creation of a quasi-governmental work force independent of, although regulated by, the FAA.

In this case, the FAA could still arrange for the training of such a force. The certification of screening companies, as required by section 302 of P.L. 104–264, is a similar approach. The FAA expects to publish a notice of proposed rulemaking on this issue in 1999.

VIII. Shared Security Responsibilities: Air Carriers and Airport Operators or the Federal Government

Possible methodologies to provide for shared security responsibilities among air carriers and airport operators or the Federal Government will be discussed in this section. As has already been noted, the regulatory framework established by the FAA to ensure efficient and effective civil aviation security is currently based upon a system of shared responsibilities.

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[45] Personnel costs are not based on the prevailing salaries paid to screeners under the current system. The assumption is that it will be necessary to increase screeners' salaries and benefits to increase the quality and professionalism of the screener work force, and a key reason for the Federal Government assuming screening responsibilities would be to ensure this change. Therefore, the personnel cost estimate is based on the postulation of 15,000 screeners in Federal Aviation Service Grades (FG) 5/7; 3,000 screening supervisors at FG–9/11; and 429 managers/program, policy, and support staff personnel (a ratio of 1 per 7 screening supervisors) ranging from FG–11 through FG–15, at an average grade of FG–13. Costs estimates are in 1997 dollars and are based on the Washington, DC, locality pay schedule for 1997 General Schedule/FG employees:

$25,897 (FG–7 Step 1) x .35 benefits x 15,000 screeners = $524,414,250
$31,680 (FG–11 Step 1) x .35 benefits x 3,000 supervisors = $128,304,000
$54,629 (FG–13 Step 1) x .35 benefits x 429 managers/staff = $31,638,385
$524,414,250 + $128,304,000 + $31,638,385 = $684,356,635

The FAA is responsible for: establishing and enforcing regulations, policies, and procedures; identifying potential threats and appropriate countermeasures; conducting research; and providing overall guidance to ensure the safety and security of the passengers, crew, baggage, cargo, and aircraft. The air carriers bear the primary responsibility for applying screening and other security measures to passengers, service and flight crews, baggage, and cargo. Airport operators are responsible for maintaining a secure ground environment and for providing local law enforcement support for the implementation of airline and airport security measures. The challenge of properly allocating responsibilities among the three groups to ensure effective and efficient civil aviation security has been difficult. Some views are presented below.

A. PRESIDENT'S COMMISSION ON AVIATION SECURITY & TERRORISM (1990): COMMENTS ON RESPONSIBILITIES

The 1990 President's Commission on Aviation Security and Terrorism did not specifically recommend that the FAA or the Federal Government assume the responsibility for passenger and baggage screening, or other security measures. Some statements seemed to endorse the existing division of responsibilities. However, while not suggesting an actual transfer of responsibility, the Commission did recommend changes to clarify accountability and made strong statements about the Federal role.

The Report of the President's Commission stated:

> "To ensure accountability, a clear line of responsibility for security must be established.
>
> Since the federal government is ultimately responsible for the safety and security of the traveling public, it must provide the leadership and take the responsibility for security at the airports." [46]

This passage from the report was in the context of security at both U.S. and overseas airports. The report continued, stating that the "Commission agrees with the premise" expressed by an airline chairman that "Governments of all nations must accept and implement their direct responsibility for security, as distinguished from a passive, regulatory role." [47]

To achieve this greater responsibility and enhance accountability, the President's Commission recommended the creation at each category X airport of a "federal security manager" who:

> "should have the ultimate responsibility for security. These officials would work with the air carriers and airport operators in designing one security plan for each airport, based upon the known and potential threat. This plan will identify the role and responsibilities of the air carriers, the airport operator, and the local law enforcement participation in terms of what each will do, how they will do it, and what resources will be committed to security, including the qualifications of the security personnel. The federal manager must approve this plan. Furthermore, the federal security manager will oversee air car-

[46] President's Commission on Aviation Security and Terrorism, *supra* note 22, p. 59.
[47] Id., p.60.

rier and airport operators in the implementation of this plan. This will include requiring the redirection of air carrier or airport security resources should the federal manager decide. . . ."[48]

The President's Commission report did not recommend the transfer of air carrier screening responsibilities to the Federal Government. It did recommend a more direct, more active role for the Federal Government in directing the deployment of air carrier and airport operator resources as they perform their identified functions. It endorsed the concept of a shift for the Federal Government from "a passive, regulatory role" to "direct responsibility for security" because it was "ultimately responsible for the safety and security of the traveling public" and should therefore "take the responsibility for security at the airports."

The 1990 Commission did not, however, recommend relieving the air carriers or the airport operators of their responsibilities and instead endorsed enhanced Federal oversight of their performance.

B. ASAC BASELINE WORKING GROUP RECOMMENDATION ON RESPONSIBILITIES (1996)

The following is a statement from the BWG report:

"The BWG considered a transfer of primary responsibility for aviation security, and in particular the screening of passengers and baggage, to the airport operator or the Federal government. However, the current structure is well understood and accepted by the parties involved. The various advantages and disadvantages of a transfer of responsibility do not offer a compelling benefit from a shift of responsibility, particularly when major changes in the domestic security baseline are anticipated. Transferring responsibility for screening passengers and baggage to an airport or Federal agency would also transfer liability, disrupt the continuity of air carrier processing, and could raise Fourth Amendment issues regarding the legality of a security search by a government entity. Government hiring and personnel practices are also less flexible than those used by industry. The fundamental consideration is that aviation security itself must be improved. Merely shifting responsibility will not remedy deficiencies in personnel, procedures, or equipment."[49]

C. WHITE HOUSE COMMISSION ON AVIATION SAFETY AND SECURITY: COMMENTS ON RESPONSIBILITIES (1996–97)

In the conclusions of its final report, the White House Commission made several comments that seem to support the concept of shared responsibilities.

"The Commission believes that each of its recommendations is achievable. But, the Commission has no authority to implement its recommendations. That responsibility lies with government and industry. Many of the proposals will require additional funding. Some of them will require legislation. Each of

[48] Id.
[49] BWG, *supra* note 3, pp. 78–79.

> them requires sustained attention. We now urge the President to make these recommendations his own. We urge Congress to provide the necessary legislation and funding. We urge the incoming leadership of the DOT and the FAA to make fulfillment of these recommendations a cornerstone of their work. We urge the commercial aviation industry to take up the technical and organizational challenges. . . .”
>
> “There are few areas in which the public so uniformly believes that government should play a strong role as in aviation safety and security. Aviation is an area over which the average person can exert little control; therefore, it becomes government’s responsibility to work with industry to make sure that Americans enjoy the highest levels of safety and security when flying. Problems in these areas contribute to an erosion of public faith in aviation, and in government itself. The Commission has laid out an aggressive agenda to help address those concerns, and believes that the implementation of this course of action must be the top priority for all those involved in aviation.” [50]

Like its 1990 predecessor, the White House Commission of 1996–97 did not explicitly recommend the transfer of responsibilities from air carriers to the Federal Government or to airport operators. It did, however, like its predecessor, endorse a stronger role for the Federal Government in aviation security:

> “In the area of security, the Commission believes that the threat against civil aviation is changing and growing, and that the federal government must lead the fight against it. The Commission recommends that the federal government commit greater resources to improving aviation security, and work more cooperatively with the private sector and local authorities in carrying out security responsibilities.” [51]

One element of that stronger role will be the continuing purchase of security equipment for use by air carriers and airport authorities to assist them in the performance of their aviation security responsibilities.

D. AVIATION INDUSTRY COMMENTS ON RESPONSIBILITIES

The airline industry seems to agree that there is no need to depart from the shared responsibilities system in place for so many years. In testimony before the White House Commission on September 5, 1996, Carol Hallett, president of the Air Transport Association of America (ATA), stated:

> “It has been suggested by some that we must radically alter our nation’s air transportation system in order to make it secure from terrorism. Based upon our understanding of the threat presented, this is not the case - the measured and deliberate steps to enhanced security which we have put forward are responsive to the need.” [52]

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[50] White House Commission, *supra* note 4, p.53.
[51] Id., p.4.
[52] Statement of Carol B. Hallett before the White House Commission, Washington, DC, September 5, 1996.

In the "Statement of Aviation Security Principles," attachment 2 to her prepared testimony, Ms. Hallett added:

> "Only with regard to countermeasures, which are deployed by airlines and airports at the direction of the USG in the aviation environment, is there a sharing of this governmental responsibility." [53]

Walter Coleman, president of the Regional Airline Association (RAA), on the same day said:

> "The regional airline industry recognizes that we must participate and contribute to the safety and security of the traveling public in establishing practical security procedures which will achieve the national objectives and also permit the airlines to continue to provide service to the communities they presently serve." [54]

The airport authorities also seem to support the continuation of the current division of responsibilities among airlines, airport operators, and the Federal Government. In his testimony at the same meeting, Mr. Marchi spoke for his organization and also for the American Association of Airport Executives (AAAE) when he stated:

> "The current system can be seen as a natural and logical split of responsibilities based on the evolution of airport and air carrier duties and obligations, which includes the airport acting as property managers and the airlines acting as transporters of people and property. Simply changing the assignment of responsibilities for passenger and baggage security screening will not improve a flawed system; rather the system, itself, and the employees who operate it should be changed.
>
> Incentives to improve performance should also be offered to the pre-board screeners themselves. That is not to say that other parties have no role to play in improving today's operations. Currently, wages are low, positions are often part-time with no benefits, advancement opportunities are limited, and there are no consequences related to making mistakes other than the possible loss of an already-less-than-desirable position. The overall quality of the applicant pool reflects the drawback of the positions offered.
>
> We recommend that all pre-board screeners be subjected to criminal background checks, and employment history verifications. That the FAA develop a standard training curriculum to certify screeners. FAA certified screeners would then be invested with a valuable and transferable skill and would be compensated accordingly. FAA should also develop hiring and training criteria for commercial entities that provide screening personnel. It may also be appropriate to require certification of the companies, themselves, who, in any event, should be responsible for conducting background investigations

[53] Id.

[54] Statement of Walter S. Coleman before the White House Commission, Washington, DC, September 5, 1996.

and should be subject to civil penalties for violation of FAA procedures."[55]

E. PARTNERSHIP

The White House Commission on Aviation Safety and Security recommended greater use of partnerships between government and the aviation industry in meeting safety and security goals. The Commission stated in its final report:

> "The premise behind these partnerships is that government can set goals, and then work with industry in the most effective way to achieve them. Partnership does not mean that government gives up its authorities or responsibilities. Not all industry members are willing to be partners. In those cases, government must use its full authority to enforce the law. But, through partnerships, government works with industry to find better ways to achieve its goals, seeking to replace confrontation with cooperation. Such partnerships hold tremendous promise for improving aviation safety and security. A shift away from prescriptive regulations will allow companies to take advantage of incentives and reach goals more quickly."[56]

In 1996, Congress eliminated the FAA's dual mandate of promoting air commerce and ensuring safety, making it clear that safety and security are FAA's highest priority.[57] Since then, FAA and industry have worked together to identify potential improvements in aviation safety and regulation.

In response to the White House Commission's call for partnership in the areas of security and safety, the FAA convened consortia at 41 major U.S. airports during September 1996. By mid-December 1996, 39 of these consortia had completed vulnerability assessments and developed action plans with recommended procedural changes and requirements for advanced security technology. FAA found that airport consortia have the potential to resolve local issues effectively because they involve more local players in a collective effort. The FAA is now attempting to secure voluntary agreements to make the consortia permanent and extend them to smaller airports, with one of their primary functions being the continuing assessment of vulnerabilities and the identification of corrective action.

While the BWG report did not recommend a major change in the responsibilities for aviation security, it did recommend a change in the partnership between the FAA and the aviation industry:

> "Greater demands on the civil aviation system require an enhanced partnership between the agency and the aviation industry. In its initial recommendations the White House Commission on Aviation Safety and Security stressed the need for a fundamental change in the way government and the private sector carry out their responsibilities. The BWG supports this conclusion and recommendation. In its 1990 report, the President's Commission on Aviation Security and Terrorism rec-

[55] "Statement of Richard F. Marchi, *supra* note 33.
[56] White House Commission, *supra* note 4.
[57] Section 223 of the Federal Aviation Reauthorization Act of 1996, Public Law 104–264, October 9, 1996, amending 49 U.S.C. § 106.

ommended that Federal Security Managers be put in place at major domestic airports to become the accountable entity for security at that location. Federal Security Managers work with the air carriers and airport operators to design and approve security systems, and oversee the carrier's and airport operators' implementation of the security system to ensure compliance. The BWG is recommending that the FSM's program be extended to selected Category I airports."[58]

F. RESPONSIBILITY FOR SECURITY RESEARCH, ENGINEERING, AND DEVELOPMENT (R,E&D)

For many years, the Federal Government and the FAA have been fulfilling a major responsibility by fostering and funding security research, engineering and development, which was accelerated by the Aviation Security Improvement Act of 1990. From 1991 to 1996, the FAA spent over $209 million on R,E&D on explosives and weapons detection technology development, airport security technology, security systems integration, aircraft and container hardening, and human factors. This effort will continue.

Following the recommendations of the White House Commission, the Federal Government returned to an area not visited since the height of the hijacking threat in the mid–1970's: the capital purchase of security equipment for use by private sector air carriers to enhance their ability to screen passengers and baggage effectively and efficiently prior to boarding.

On October 30, 1996, the FAA established an integrated product team (IPT) to acquire and deploy advanced security equipment through "non-competitive contracts or cooperative agreements with air carriers and airport authorities, which provide for the FAA to purchase and assist in installation of advanced security equipment for the use of such entities."[59] The equipment acquisition has been funded in the FAA Facilities and Equipment account derived from the Airport and Airway Trust Fund. The team includes working representatives of air carriers and airport authorities.

The following table depicts planned expenditures for various types of equipment selected by the integrated product team for purchase and deployment during FY's 1997–99:

TABLE II

FAA Expenditures in FY 1997–98 for Acquisition of Security Technologies

Explosives Detection Systems	$ 68,313,400
Other Automated Technologies	$ 15,550,000
Explosives Trace Detectors	$ 45,036,600
Computer-Assisted Passenger Screening (CAPS)	$ 10,000,000
Screener Proficiency Evaluation & Reporting System (SPEARS)	$ 5,300,000
Total	$144,200,000

[58] BWG, *supra* note 3 , p. 77. (14 CFR § 191 applies.)

[59] This was authorized and funded by title V of the Omnibus Consolidated Appropriations Act, 1997, Public Law 104–208.

G. AVIATION SECURITY TRAINING

Changes in the current system, which have been debated for years, have occurred only incrementally, often in response to a crisis or loss of an aircraft. One of the common threads weaving throughout all reports, books, hearings, articles, and recommendations over the years has been the need for better and more standardized aviation security training and an increased role for the Federal Government in both.

This is particularly important now, since many new, more complicated but effective types of equipment are being deployed at U.S. airports. The operators of advanced security equipment need far more detailed training, management attention, and motivation to ensure that devices are properly and effectively operated. Much more in the way of following operational procedures and making decisions needs to be done by the screeners. This places additional burdens on the selection, training, and maintenance of at least this part of the screener work force.

As long ago as the September 1989 hearings of the House Government Activities and Transportation Subcommittee on the bombing of Pan Am Flight 103, Mr. Noel Koch, formerly Principal Deputy Assistant Secretary of Defense for International Security Affairs, in his prepared statement said:

> ". . . we have to pay much closer attention to the personnel side of the security equation. At the present time, the economics of security appear to militate in favor of hiring entry-level minimum wage people. They often get little or no training, they have frequently the most limited "people skills," and the turnover rates among them are wholly inconsistent with the requirements of an effective security system. Put minimum wage people on a million dollar machine, give them little or no training, manage them like entry level people, and you will get minimum wage performance out of your million dollar machine. . . . Coupled to a more imaginative hiring philosophy, we will benefit from a systematic approach to training security personnel. This is an area in which the FAA may need additional authority, to standardize training requirements for security personnel, and to assist in bringing training regimes up to those standards."[60]

Mr. Koch's comments are still pertinent today. The "Certification of Screening Companies" rulemaking[61] offers an opportunity for FAA to present to the public for comment both selection criteria and training standards and seek ideas for improving aviation security training.

In his 1993 book *Combatting Air Terrorism*, Rodney Wallis, former director of security for the International Air Transport Association, also suggested an increased role for the FAA in the area of training:

> "Training is a truly vital part of air transportation's fight against terrorism, yet too many governments, airport administrations, and airline managements fail to ensure their staff are

[60] The Bombing of Pan Am Flight 103 (statement of Mr. Noel Koch), *supra* note 14.
[61] See note 9, *supra*.

> adequately prepared for their roles . . . A role the FAA might well enlarge is the physical monitoring of U.S. based airlines' training and security implementation at home and abroad."[62]

There is broad, although not universal, agreement that the regime of shared responsibilities should stay the same. However, it could be argued that the Federal Government should increase its involvement by setting training standards, thereby adding to its other responsibilities for capital equipment purchases, R,E&D, intelligence assessments, testing countermeasures, standard setting, and compliance and enforcement of regulations. Air carriers would still be responsible for screening, but their employees, the screeners and their supervisors, would be trained to standards set by the FAA in accordance with White House Commission recommendations 3.2 and 3.10.

Commissioner Victoria Cummock introduced and supported recommendation 3.2 at the final meeting of the White House Commission on February 12, 1997. Later, she went further in her discussion of training under recommendation 3.10 in her dissent, contained in appendix I of the final report:

> "This recommendation contains a number of admirable objectives but it, like its predecessor recommendation in President Bush's Commission on Aviation Security and Terrorism lacks teeth. Following President Bush's Commission of Aviation Security and Terrorism and the follow-on Aviation Security Improvement Act in 1990, the FAA established standards for the selection and training of aviation security personnel. Those standards were, and still are, totally inadequate. There is nothing to prevent the same inadequate actions by the FAA to this recommendation. The Commission should specifically recommend that the FAA mandate 80 hours of intensive classroom/laboratory and 40 hours of on-the-job training before performance certification for all airline security screening personnel."[63]

An identical recommendation for 80 hours of classroom and 40 hours of on-the-job training had been made by Patricia Friend, international president of the Association of Flight Attendants, AFL-CIO, at the White House Commission meeting on September 5, 1996. These discussions, contained in the final report and its dissent, and in testimony, all support the need for improved, more comprehensive training. Again, the certification of screening companies rulemaking offers an opportunity to improve training and thereby improve screener performance. Investment in training and requirements for improved performance will offer an economic incentive for airlines to retain the most productive, efficient, and effective screeners which will, in turn, lead to higher wages and better benefits.

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[62] Wallis, Rodney, "Combatting Air Terrorism," Brassey's (US), Washington, New York, London, 1993, p.117.

[63] White House Commission, *supra* note 4, Appendix I, dated February 19, 1997, unnumbered p.8.

The FAA takes human factors into account (as required by the provisions of Aviation Security Improvement Act of 1990)[64] by providing appropriate training and developing utilization standards, clear guidance, and operational procedures in partnership with the airlines to ensure the effective use of security equipment by trained and properly motivated air carrier and contractor personnel. FAA is already taking steps to improve initial and recurrent training curricula for checkpoint screeners and their supervisors. Such FAA involvement will increase.

All of us must be concerned with how to help people do the difficult job of screening baggage for explosive devices better by improving the human factors engineering of their work environment. Lessons learned from the operational deployment of explosives detection systems (EDS) substantiate the need for screeners who use the machines to be properly trained and highly motivated. Personnel selection criteria and training standards are important considerations receiving particular attention by all concerned.

The FAA developed and is currently deploying the Screener Proficiency Evaluation and Reporting System (SPEARS), which can help train air carrier screeners and maintain their proficiency. One SPEARS component, a computer-based training (CBT) system for screeners, was successfully tested in 1996 in Chicago. CBT modules for training security screening checkpoint x-ray machine operators are now operational at 36 major airports, including Seattle, Miami, Los Angeles, St. Louis, Baltimore, Detroit, Houston, Dallas, New York, Denver, Orlando, San Juan, Atlanta, and San Francisco, with additional airport installations continuing throughout 1998 in about 77 of the busiest U.S. airports. Specialized modules will soon be available for training operators of explosives detection systems and will be installed on all deployed systems.

Another component of SPEARS is the Threat Image Projection (TIP) system, which displays artificial images of improvised explosive devices and dangerous articles in baggage, as though they were part of an actual item being screened by an x-ray device or EDS. The screeners' decisions are tabulated and recorded to provide feedback for effectiveness monitoring and use as a training tool. After final evaluations and adjustments are completed, several hundred TIP modules will be installed in checkpoint x-ray machines and explosives detection systems at the busiest airports in the United States.

The FAA provides formal training through airport security seminars for law enforcement officers and airport personnel with aviation security responsibilities. Aviation security special agents are also asked by individual airlines to provide 1- or 2-hour blocks of instruction in airline training courses. Similar participation occurs in industry association-sponsored schools and conferences as part of FAA's partnership efforts. Specialized courses of instruction on specific topics have been prepared by the FAA and are presented on request.

The White House Commission called for an additional 114 canine explosives detection teams to be trained and deployed at the Na-

[64] Sections 105 and 107 of Public Law 101–604, November 16, 1990, adding sections 316(d) and (g) to the former Federal Aviation Act of 1958, now U.S.C. 44912(a) and 44935(b), respectively.

tion's busiest airports, and Congress appropriated $8.9 million for that purpose. During 1997, the FAA trained 54 handlers and 60 dogs. The first "FAA exclusive" class of K–9 handlers graduated from the Military Working Dog School at Lackland Air Force Base, Texas, on March 25, 1997. The FAA will continue to cover canine procurement costs and training, evaluation, and certification for explosives detection team dogs and handlers as the program is expanded.

At the time the White House Commission's initial report was published in September 1996, there were 87 teams deployed at 31 locations. In June 1997, there were 116 canine teams at 33 major airports, then 130 teams at 38 airports across the country by early 1998. As program expansion continues, by the end of 1998, there will be about 154 teams at about 40 airports.

In one of many interagency partnerships, the FAA and the Treasury Department's Bureau of Alcohol, Tobacco and Firearms (BATF) signed an agreement in 1997 outlining the principles governing a joint research pilot project, then began the project, using one FAA trained and certified team working in parallel with a BATF trained and certified team.

It is important to note that the teams will be doing more and operating longer. In addition to clearing terminals and airplanes after bomb threats, they will search suspect bags and cargo, and perform visible patrols and training to increase deterrence. The FAA has worked closely with industry to establish a reimbursement process to cover allowable operational expenses, such as handler salaries, kenneling, dog food, vehicles and associated maintenance, and routine veterinary care. The program remains voluntary on the part of airports. Those not in the current program are unlikely to join without adequate cost sharing by the Federal Government. Future growth is therefore a function of available funding.

IX. FUNDING FOR AVIATION SECURITY

One purpose of this study is to "examine potential sources of Federal and non-Federal revenue that may be used to fund security activities," a matter of continuing controversy for the last 30 years. Section 301 of the Federal Aviation Reauthorization Act of 1996 states that one potential source of revenue to be considered is "providing grants from funds received as fees collected under a fee system established under subtitle C of title II of this Act and the amendments made by that subtitle." Both the White House Commission and the Aviation Security Advisory Committee Baseline Working Group discussed funding issues and identified potential sources of revenue.

In introducing the discussion of chapter 3 on aviation security during the final public hearing of the White House Commission on February 12, 1997, Commissioner Brian Jenkins said:

> "Most importantly, we now recommend that the federal government should consider aviation security as a national security issue and provide substantial funding for capital improvements. Specifically, we recommend $100 million annually. We recognize that this is not enough and therefore we also recommend that the National Civil Aviation Review Commission

established by Congress consider a variety of options to pay for further implementation and operation of these vital security measures."[65]

The wording of Recommendation 3.1 of the White House Commission's final report is even more direct:

"The federal government should consider aviation security as a national security issue, and provide substantial funding for capital improvements. The Commission believes that terrorist attacks on civil aviation are directed at the United States, and that there should be an ongoing federal commitment to reducing the threats that they pose."[66]

The FAA Aviation Security Advisory Committee's Baseline Working Group (BWG) in its final report went further:

"A majority of the BWG concluded that the full cost of implementing and maintaining an improved domestic security baseline should be funded by a Congressional appropriation from the General Fund. Such costs include, but are not limited to, the acquisition, installation, training, and implementation of equipment, facilities, personnel, and procedures. A dedicated funding stream should be identified to fund the operating costs associated with continuing to maintain the elevated domestic security baseline prescribed by the BWG recommendations. Operating costs associated with the domestic security baseline include, but are not limited to, costs associated with the continuing operation, maintenance, and staffing of programs identified by the BWG recommendations and as may be required by Federal mandate."[67]

The BWG's majority opinion on funding sources discussed the issue in greater depth than indicated in the recommendations above. The Group also said:

"Federal resources certainly exist to fund any program if the national will is to do so. The money could be made available rapidly as no new collection mechanism would be needed. However, such an outlay may also be subject to shifting agendas and priorities from year to year which could be disruptive to the coherence and continuity of a major plan to increase security. The Federal government could, in principle, fund all aviation security costs out of general revenues. If the threat of terrorism is viewed as a national security issue requiring a concerted national response, then there is no fundamental distinction between expenditures for aviation security and other counter-terrorism programs funded directly through appropriations.

The mechanism of collecting and disbursing funds for aviation security can assume many forms but the source of those funds must inevitably be the public. The basic difference is whether to assess the necessary expenses selectively to the air traveling public or generally to all taxpayers. The current

[65] Transcript of the Final Public Hearing of the White House Commission, Washington, DC, February 12, 1997.
[66] White House Commission, *supra* note 4.
[67] BWG, *supra* note 3, p.90.

mechanisms of collection that could be used are: Congressional Appropriation (General Fund); PFC Capital/Operating Fund; AIP Capital/Operating Fund; Security Surcharge; and Ticket Tax.

Whichever collection mechanism is considered, it must be federally mandated to avoid competitive pressures and require stringent accounting procedures to assure that the funds will be disbursed only for aviation security purposes. Such funds must be subject to federal audit procedures. The total, 10-year cost of the new security baseline is estimated at $9.9 billion. Costs associated with interim security measures are not included in this figure but are detailed in the full BWG report."[68]

In May 1997, the FAA estimated that the total 10-year cost to the Federal Government, airport authorities, and airlines for security programs at Category X airports alone would be close to $3 billion. The total includes capital costs for new equipment as well as added personnel and their training. This averages out to $154 million per Category X airport, or slightly over $15 million annually for the next 10 years.

The Office of Management and Budget (OMB) representative on the BWG strongly disagreed with the views expressed by the majority of the Group on funding from sources other than prospective users (i.e., passengers). The following dissenting view was received from the OMB:

"OMB staff strongly disagree with these recommendations. They are inconsistent with the current practice of FAA programs, contradicting long standing government-wide budget policy, and reflect an unrealistic outlook regarding the availability of discretionary funds. First, aviation system users currently pay for on-going aviation security costs. These are considered to be costs incurred by the private aviation industry for doing business in modern society. There is no fundamental difference between these programs and those being considered by the BWG.

Second, OMB Circular A–25, which establishes Federal policy regarding user charges, states that such charges should be assessed for Federal activities that convey special benefits to recipients beyond those accruing to the general public. The BWG's recommendation that start-up aviation security costs be funded from the General Fund is inconsistent with this policy.

Third, continuing efforts to balance the budget will significantly limit the amount of General Fund monies available to support this, or other, potentially worthy expenditures. Given the demands on those funds and the number of actors involved in allocating them, it is unrealistic to think that a protected pot of money could be set aside for this purpose. Finally, a dedicated funding stream for operating costs, if not paid by the users, provides little incentive for cost discipline in the provi-

[68] Id., pp. 90–91.

sions of these services and will result in waste and increased cost to the public."[69]

On March 27, 1997, the Acting FAA Administrator responded to the BWG recommendations approved and forwarded by the ASAC in a memo stating: "I have received the recommendations developed by the ASAC for the Domestic Security Baseline. I am pleased that the ASAC continues to provide FAA with balanced and insightful recommendations. However, I do not concur with the following three specific recommendations . . . Full Federal funding of the baseline recommendations (page 11) was objected to by OMB in a dissenting opinion. The White House Commission has referred further funding issues to the National Civil Aviation Review Commission."

In addition to creating the National Civil Aviation Review Commission (NCARC) and requiring this study, section 274 of the Federal Aviation Reauthorization Act of 1996 directed the FAA to "contract with an entity independent of the Administration and the Department of Transportation to conduct a complete independent assessment of the financial requirements of the Administration through the year 2002."[70] Coopers & Lybrand L.L.P., a professional services firm, was selected to conduct the independent study.

Safety and security programs have the highest priority in FAA budgets. The 1998 budget requested significant increases for safety, including funding for an increase of 500 air traffic controllers, 326 flight standards and certification personnel, and 173 security staff. The 1998 budget also included a request for an advance appropriation of $100 million in 1999 as a follow-on to the $144.2 million appropriated in 1997 to fund White House Commission recommended security equipment deployments.

Coopers & Lybrand also concluded, on the basis of interviews conducted with FAA staff, user groups, and White House Commission members, that the impact on the FAA's budget of Commission and BWG recommendations "could be substantial" though the White House Commission's final report had not been completed.[71] The OMB's FY 1998 passback on the FAA Facilities and Equipment budget, which is also noted in the Coopers & Lybrand report, stated: "The Gore Commission staff are interested in additional 1998 security equipment purchases. Any such purchases are to be user fee financed or financed by airports or airlines in response to FAA regulation." This is, of course, not what the Commission finally recommended.

NCARC and its aviation funding task force were tasked to "submit a report setting forth a comprehensive analysis of the Administration's budgetary requirements through fiscal year 2002, based upon the independent assessment . . . that analyzes alternative financing and funding means for meeting the needs of the aviation system through the year 2002."[72] Congressional deliberations in response to the NCARC and Administration proposals concerning the structure and content of any system for funding FAA through

[69] Id., Appendix A, p.1.
[70] Public Law 104–264, October 9, 1996.
[71] Coopers & Lybrand L.L.P., "Federal Aviation Administration Financial Assessment," Washington, DC, February 28, 1997, pp. VII–16, 17.
[72] Section 274 of the Federal Aviation Reauthorization Act of 1996.

user fees, now possibly including capital expenditures for security equipment that would be used by air carriers, have not yet been completed. The setting of user fees is one of the options that was examined. A goal of user fee financing would be to balance collections and expenditures so that all needed improvements in safety and security systems could be financed and implemented promptly.

The NCARC's December 1997 report recommended that the air traffic services portion of the FAA be financed by user fees but that security and safety oversight be funded by general fund appropriations. The Administration's subsequent budget and reauthorization proposals for the FAA, while consistent with the NCARC recommendations in many ways, differed in that they proposed no general fund appropriations after 1999.

Others have suggested sources and methods of funding. Notably, Senator Lautenberg introduced the Aviation Security Act of 1996 (S.2037) on August 2, 1996, many aspects of which were incorporated into the Reauthorization Act. Speaking about this bill during the hearing held on August 1, the Senator said:

> "ASA [S.2037] proposes that a security assessment fee, or small surcharge of no more than $4, be added to each round trip ticket to pay for needed improvements . . . An alternative financing mechanism would be to authorize the Department of Defense to transfer such funds as may be necessary to implement provisions of the act. In drawing on defense funds, we would recognize that terrorism is a national security threat." [73]

X. Legislative Proposals

There is no need at this time for the FAA to initiate legislation to transfer responsibilities for aviation security among the major parties. Both Presidential commissions, however, saw a need to clarify authority and responsibility in certain areas. Some clarification may be accomplished through the proposed revision of title 14, Code of Federal Regulations, Part 107, Airport Security, and Part 108, Airplane Operator Security. [74] These are the two basic regulations governing civil aviation security provisions required to be implemented by U.S. airports and air carriers. Individuals are also affected by portions of both regulations.

The rulemakings propose a number of changes, which are intended to update the regulations to reflect the current approach to security better. For example, some proposed changes seek to clarify air carrier and airport security personnel training requirements, more clearly define the most critical security areas in an airport, and clarify the role of the airport security coordinator.

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[73] "Aviation Security": Hearings before the Senate Committee on Commerce, Science, and Transportation, 104th Cong. 14 (1996) (statement of Senator Lautenberg).

[74] Notices of Proposed Rulemaking on the revision of Federal Aviation Regulations parts 107 and 108 were published in the *Federal Register* on August 1, 1997, 62 Fed. Reg. 41730, 41760 (1997). Because both rulemakings had been in development for several years, predating 1996–97 legislative initiatives, preambular language notes that the proposals do not reflect changes based upon the most recent legislation, or the recommendations of the White House Commission. Changes resulting from these recent initiatives will be made after the final rules have been published.

XI. Study Conclusions

A. RESPONSIBILITIES

There appears to be a consensus in the civil aviation community to retain the current system of shared responsibilities for security. In contrast, there appears to be no consensus "to transfer certain responsibilities of air carriers under Federal law for security activities conducted onsite at commercial service airports to airport operators or to the Federal Government."[75] Some argue that airport operators should assume screening responsibilities[76], but most seem content with recommending that airport authorities become more involved in some manner, citing specific examples or areas in which more assistance may be usefully offered. There is little support for the Federal Government's assuming all air carrier responsibilities. There is significant support for more Federal Government involvement and funding.

Incremental increases in Federal Government involvement in aviation security are inevitable given the recognition that the primary justification for security measures is antiterrorist in nature, with aviation security now seen more clearly as a component of national security. Increased involvement means increased investment of personnel and other resources. Most representatives of the airport and airline industry believe that the General Fund should be the financial source for future aviation security Federal expenditures rather than the Airport and Airway Trust Fund. The Administration disagrees with this position and has proposed instead that funding for FAA activities, including security activities, be derived from charges paid by users of the National Airspace System.

The Federal Government intends to continue capital purchases of aviation security equipment to be used by the airlines. Given that commitment and the strong support for better training that was so apparent during the study, it seems logical for the next incremental Federal involvement to be in developing more comprehensive training standards for the people who use the equipment that has been purchased, rather than in making equipment operations and maintenance subsidy payments to the airlines. Better training is a better investment. Air carriers should not have to bear all the costs of security, but they should bear a substantial portion of the personnel costs to provide security screening and the operational costs of using the advanced security equipment that the Federal Government provides.

Air carriers should be inclined to protect their investments in hiring and training their personnel by providing better compensation and benefits to keep them on the job and lower turnover rates. This applies particularly to screeners. In the absence of consensus to change the existing system, the airlines retain the responsibility for screening, and retain control of passenger movement and the quality of customer service. The U.S. Government continues to control the quality of aviation security and security screening by set-

[75] Section 301 of the Federal Aviation Reauthorization Act of 1996.

[76] For example, on June 20, 1996, the Deputy Commissioner, Department of Aviation, City of Chicago, proposed assuming pre-board passenger screening responsibilities after receiving a report of a study by the Conley Group Inc., on such screening at O'Hare International Airport. The FAA responded that the proposal was "not feasible under applicable law" at that time.

ting higher, but realistically achievable, standards for screener selection, training, and performance.

B. FUNDING

There are several options for funding aviation security activities such as those recommended by the BWG and the White House Commission. One possibility is for the Federal Government simply to pay for all expenses out of the general revenue fund. The principal rationale would be that aviation security is a national security issue and that therefore the National Government should be responsible for the costs. This position has been advocated by many in the aviation industry but is likely to be politically impossible, given fiscal constraints.

A second option would be to use AIP or PFC funds. This would have the advantage of requiring the users of aviation security to pay for it, resulting in higher ticket prices. Increased prices would impact negatively on the financial health of air carriers and airport operators, and those who do not fly but receive economic and other benefits from a safe, secure, and efficient air transportation system would not be paying their fair share. Further, AIP funding levels have been significantly lower in recent years than they were previously, and there are many other demands placed upon it to fund safety improvements.

A third avenue would be to apply a security user fee or surcharge to the cost of a ticket, similar to a passenger facility charge but dedicated to funding security. Care would have to be taken to ensure that the collected funds were used only for security purposes. This option would also have the advantage of collecting costs from those who use a service, but it could also reduce passenger volume.

The same arguments also apply to the last option, a dedicated security ticket tax, whose proceeds would be reserved for security costs. Note that a $2-per-enplanement surcharge would have brought in about $1.2 billion in revenues in 1997, which would be sufficient for the additional expenses envisioned in the BWG recommendations.

The NCARC studied recommendations for funding FAA requirements, including security needs. The Administration disagrees with the conclusions of the NCARC report in this regard, specifically "that the security functions of the FAA be paid for through a general fund contribution[77]." The Administration has proposed instead that funding for all FAA activities, including security activities, be derived from charges paid by users of the National Airspace System. The NCARC report included no broad discussion of funding for the entire aviation security system, including private sector air carriers and public sector airport operators.

There is no apparent consensus for changing the overall system of funding for aviation security, particularly funding for that portion provided by private sector air carriers and public sector airport operators. There is also no definitive answer to the longstanding question of "who should pay" for security; the current system as described in the foregoing pages remains in place. Therefore, the FAA

[77] NCARC, "Avoiding Aviation Gridlock & Reducing the Accident Rate: A Consensus for Change," Washington, DC, December 1997, p. II–31.

will not at this time make additional recommendations regarding funding sources to Congress.

XII. APPENDIX: FAA STUDY ON SECURITY RESPONSIBILITIES: 1991

An internal, unpublished FAA study conducted in 1991 evaluated three alternatives for a shift in security responsibilities with respect to passengers, baggage, and cargo from the air carriers to airport operators to determine whether or not any alternative was likely to improve security system performance. The basic framework and content of the study, including the conclusions reached at that time, are presented below without substantive modification. The alternatives examined in 1991 were in addition to the system then in place and are presented here as they were then written. The essential elements of these options remain valid today.

Alternative 1. Airports assume the responsibility for the sterile areas [78] and screen all persons and their personal property (sterile area screening); air carriers retain their other security responsibilities.

Alternative 2. Airports conduct sterile area screening, screen checked baggage; air carriers retain their other security responsibilities.

Alternative 3. Airports conduct sterile area screening, screen checked baggage, and screen cargo and mail; air carriers retain their other security responsibilities.

The following criteria were used to evaluate the alternatives:

- Effectiveness in improving security;
- General acceptance of an alternative by airport operators, air carriers, and system users as well as the level of political support;
- Economic efficiency;
- Need for statutory and/or regulatory changes;
- Impact on overall quality of air transportation service; and
- Ease of enforcement and oversight.

The following factors are important for understanding the implications of the alternatives as discussed in 1991:

Threat management. Coordinating overlapping responsibilities for the implementation of certain security measures, in particular the response to anonymous telephoned "bomb threats" to aircraft, was complicated by conflicting views and actions of air carriers, airports, and local law enforcement officials. These conflicts should be lessened by a restatement of responsibilities in the rewrite of FAR parts 107 and 108, both published in the *Federal Register* as a notice of proposed rulemaking on August 1, 1997. [79] The 1991 report did not analyze transferring or adding threat management responsibilities to the airport operator that were not explicitly defined in the then-current regulations.

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[78] The sterile area is an area to which access is controlled by the inspection of persons and property in accordance with an approved security program or a security program used in accordance with FAR § 129.25 (49 CFR § 129.25). Normally, this is the area one enters after passing through the security screening checkpoint and its metal detectors, x-ray devices, and hopefully, advanced security equipment such as trace explosives detection devices.

[79] Note 72, *supra*.

Passenger/baggage positive identification and reconciliation. In 1991, positive passenger/baggage match was required for all international flights, but not for domestic flights. A positive passenger/baggage match would be greatly affected by a transfer of this responsibility to airport operators. The air carriers would still need to provide the information to perform the match and hold or pull bags from aircraft. With the added delay of processing by the airport operators, on-time departures would be more difficult, and hubs could be disrupted by the delays.

Air carrier security responsibilities. No conceivable alternative can vest total security responsibility with the airport because air carriers will still be responsible for securing aircraft, challenging persons without appropriate identification who approach an aircraft, providing security training for crewmembers, and dealing with in-flight security issues. Shifting these functions was not considered an alternative. Because some FAA requirements go beyond those administered by the International Civil Aviation Organization (ICAO), and are typically not performed by foreign airport/government authorities, shifting certain security functions within the United States would not relieve air carriers of their duty to perform those same functions overseas.

Airport profiling of passengers. In 1991, air carrier ticket agents profiled passengers when they checked in and checked their baggage. Based on specific profiling criteria, actions were taken with respect to selected passengers including a more careful screening of their checked baggage. Use of the ticket agent as the focal point was the most efficient and effective way to profile passengers. Having airport operators profile passengers would still require information that can only be obtained from air carriers. This information would then have to be communicated to airport personnel. Establishing airport proficiency in this area would likely add personnel costs without improving effectiveness.

Carriers continue to screen passengers and carry-on baggage. Establishment of a separate program by airport operators to perform this function was considered problematic because of a need to collocate screening gates, resulting in added expenses and additional oversight requirements. Such a program would have all the disadvantages of Alternative 1 without most of its advantages. Thus, this proposition as an alternative was rejected from further analysis.

The baseline case to which all the alternatives were compared is the system as it existed in 1991. The pros and cons of this option follow, and are followed in turn by the pros and cons of the three alternatives.

Keeping the 1991 Security System

pro:

- The 1991 system was proven to be effective in maintaining a secure air transportation system (as the study authors believed at the time).
- The system of allocating responsibilities was well understood, was accepted by all major participants, and had supporters.

- The system was a natural and logical division of responsibilities based on the evolution of airport and air carrier duties and obligations, which included airports acting as property owners and air carriers acting as transporters of persons and property.
- The system had developed as an integration of responsibilities that have been logically assigned.
- Maintaining the 1991 system would not have required statutory changes or a major restructuring of regulations and security programs. Updating Parts 107 and 108 will make the system more efficient.
- Maintaining the status quo would have the advantage of avoiding a series of potentially confusing reorganizations with the possibility of temporary security lapses.
- Most of the aviation threats in 6 of the last 7 years (through the late 1980's) were received by air carriers and directed at aircraft. Thus, it would be inefficient to shift the responsibility of evaluating the response to those threats away from the air carriers and to the airports.
- There would be no disruptive financial changes to the air carriers or the airport authorities and no adverse changes in the overall quality of transportation service.

con:

- In the 1991 system, there was no single focal point for all sterile area screening at each airport. Making the airport operator accountable for all such screening functions would integrate this responsibility and might improve managerial oversight and accountability.
- It is more difficult to organize and then implement coordinated contingency plans to meet threat conditions when major security responsibilities are fragmented among several entities.
- Originally, passenger and carry-on baggage screening were performed only at the air carrier gate. Over time, these tasks have evolved so that in many airports the sterile area encompasses much or all of the entire terminal. If much or all of the terminal is to remain a sterile area, it might be better for the airport operator to manage sterile area screening.
- Requirements for specialized equipment (explosives detection systems and other devices) might impose future expenses on air carriers.

1991 Evaluation of Options

Alternative 1. Airports assume the responsibility for the sterile areas and screen all persons and their personal property (sterile area screening); air carriers retain their other security responsibilities.

pro:

- Security efficiency may improve at some airports with multiple sterile area screening checkpoints. There may be a consolidation of security screening personnel and their training.

- Flight schedules suggested in 1991 that airport operators sometimes may have been able to move security personnel under their control from one section of the airport to another section and screen passengers for less cost than the air carriers. At some airports, air carriers were structuring screening to obtain these efficiencies.
- At many airports in 1991, there were many air carriers responsible for maintaining one screening checkpoint. In such cases, the air carriers rotated, on a periodic basis, the responsibility for screening. This led to a lack of air carrier involvement in managing these checkpoints. Having the airport operators in charge of these checkpoints could potentially improve the effectiveness of oversight.
- Some airports believed they could improve the effectiveness of the passenger and carry-on baggage screening process by hiring, training, and adequately compensating professional screeners. Nearly all air carriers contracted out this function, while a few used their own staff.
- The public often incorrectly assumed that airport operators were responsible for screening efforts, which were sometimes perceived as less effective than they should have been. Airports could therefore improve their public image in some cases by assuming screening responsibilities and then improving screening effectiveness and procedures.

con:

- Based on conversations with airport personnel in 1991, their previous experiences had shown that increasing salaries alone would not increase screener effectiveness. Further, any air carrier had then and has today a direct interest in protecting its expensive aircraft and company image as a safe carrier.
- Sterile area screening costs were judged likely to increase: airports may want remuneration for screening over their fixed and variable costs. While screening is purely an overhead cost to the air carriers, who struggle to keep airfares low and competitive, it may be viewed as a profit-making "service" not subject to the cost discipline of economic competition, if conducted by the airports. At the very least, each airport may be expected to differ on the cost of screening.
- Air carriers would still have a vested interest in the efficiency of the screening conducted by the airports. Given their large investments in aircraft and public relations, air carriers were seen as likely to insist on maintaining a screening oversight function to ensure safety and minimize inconvenience to passengers; this would duplicate the oversight program established by the airports.
- Increases in screening costs might result in higher ticket prices. This would be viewed negatively by the air carriers and passengers unless there were a corresponding and noticeable improvement in screening effectiveness.
- Airports are government entities that may have less financial flexibility to pay fines for noncompliance; the assessing of violations and fines by the FAA would also have political ramifications.

- This alternative would require statutory changes to 49 U.S.C. 44901, formerly section 315(a) of the Federal Aviation Act of 1958, unless an airport operator were designated as an agent for the air carriers. At present, air carriers have the legal responsibility for ensuring the security of passengers and carry-on baggage and, when necessary, to perform various levels of searches.
- This alternative would require major restructuring of Federal Aviation Regulations parts 107 and 108 as well as the Air Carrier Standard Security Program (ACSSP) and the Airport Security Program (ASP).
- Airport operators generally do not wish to take on the security responsibilities of the air carriers and the associated liability.
- FAA security staff have indicated that it would be easier to monitor the actual security operational responsibilities of a relatively small number of air carriers, each with a standardized security program, than to review many airports, each with a unique security management system.
- Air carriers will likely resist any shift of control over the sterile area screening process because of residual security responsibility and liability.

Alternative 2. Airports conduct sterile area screening, screen checked baggage; air carriers retain their other security responsibilities.

pro:

- If an airport responsibility, security-related equipment could be purchased with Airport Improvement Program (AIP)/Passenger Facility Charge (PFC) funds. Air carriers, however, are not eligible for these funds.
- There may be some potential cost savings due to economies of scale at some large airports, where the physical layout would support a centralized checked baggage screening system. For example, if the FAA were to require the use of explosives detection systems (EDS), fewer machines would be needed to serve air carriers, especially those with few flights. (Note: this could be arranged among air carriers as well.)
- There could be some improvement in efficiency (reduction in cost) at an airport if the airport took over responsibility for both sterile area screening and checked baggage screening, because some air carrier security management responsibilities could be consolidated with the airport security responsibilities.
- Consolidation could streamline the channels of communication between airport personnel conducting checked baggage screening and airport police, thus resulting in a potentially shorter response time to security threats.

con:

- Airports would assume increased liability for losses resulting from security-related events. Joint responsibility could lead to confusion. The net result is that airport operator liability

would expand as airports take on more security responsibilities while air carrier liability may not decrease.

- Under this alternative, airports would share partial liability for lost, stolen, or mishandled baggage since both the airport and air carriers would handle baggage.
- Airports may decide to consolidate checked baggage handling at one or more centralized areas to reduce airport costs. This could cause several problems. One is that it would be more likely for checked baggage to be lost or sent to the wrong air carrier. Another is that such a centralized system would slow down the checked baggage sorting and screening process. Baggage may be conveyed to this centralized area by baggage carts, which would increase the opportunity for security problems. Any improvements in efficiency and effectiveness would be site specific and would not occur on a larger nationwide scale.
- Airports would want remuneration for handling checked baggage, thus raising overall carrier operating costs.
- Passengers are profiled when they check in at the ticket counter and check their baggage. The most efficient party to profile passengers would be the air carrier ticket agent, rather than an airport employee.
- This alternative would encounter strong resistance from air carriers and most airports.

Alternative 3. Airports conduct sterile area screening, screen checked baggage, and screen cargo and mail; air carriers retain their other security responsibilities.

pro:

- Airports could use AIP/PFC funds to purchase specialized equipment, such as x-ray machines, to assist in screening cargo and mail.

con:

- Involving the airport in screening cargo is redundant and extremely inefficient. In 1991, freight forwarders and indirect air carriers took cargo directly to the air carrier that handled the cargo. Either the airport would have to have representatives at multiple cargo facilities at each airport or all air cargo would have to be funneled through a centrally established cargo entry point. For the airports to handle and screen the cargo and then provide it to the air carriers would introduce an inefficient additional layer of bureaucracy.
- A major cargo security measure is the documentation that cargo shippers provide. Air carriers have information about known shippers; new or unknown shippers get scrutinized more carefully. If airports took over screening cargo, each airport would have to establish and maintain a record of each of the air shippers; currently, an air carrier can share this information with its security personnel at each airport it services.
- The United States Postal Service and the air carriers have an established relationship. If air mail security procedures were to

change, adding airports to this process would likely make the situation more complex.

CONCLUSIONS AS PRESENTED IN THE 1991 STUDY

The 1991 system was well understood and accepted by most major participants. Although the system had both pros and cons, it was fundamentally an effective and efficient security system. While there were advantages to each of the three alternatives, there also were some major disadvantages to shifting any of the major security functions from the air carriers to airport operators. On balance, there did not appear to be a net benefit in adopting any of the alternatives over the 1991 system. Consequently, it was recommended that that system be continued. However, in recognition of the need for further analysis to study ways that security might be improved, the FAA should consider running a trial at a selected domestic airport to test the viability of transferring certain security functions, particularly screening at checkpoints, from air carriers to the airport authority.

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(3) Report to Congress—Aviation Security: Aircraft Hardening Program

Report of the Federal Aviation Administration to the House and Senate Committee on Appropriations pursuant to Senate Report 102–351 on the Department of Transportation FY 1993 Appropriations Act

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I. Executive Summary

This report is submitted in response to language in Senate Report 102–351 accompanying the Department of Transportation Appropriations Act for Fiscal Year 1993. The Federal Aviation Administration (FAA) was asked to study different types of technology designed to protect aircraft against certain explosives and to report to the Appropriations Committees on its findings. The FAA was also asked to consider investment and operating costs, acceptable safety margins, passenger convenience, and any other relevant factors. Interim reports were submitted to the Appropriations Committees in September 1994 and March 1996.

This report provides a current assessment and review of the research work completed to date regarding one such technology, hardened containers.

II. Program Background

The aircraft hardening program was initiated in 1991 in response to recommendations of the President's Commission on Aviation Security and Terrorism and in compliance with direction set forth in the Aviation Security Improvement Act of 1990. The goal of the program is to protect commercial aircraft from catastrophic structural damage or critical system failure due to in-flight explosions.

Aircraft hardening analysis generally consists of two distinct elements: susceptibility and vulnerability. Susceptibility is the probability that explosives of a particular nature and amount can be successfully placed on board an aircraft. Vulnerability is the conditional probability that an aircraft will be destroyed or suffer some specific level of damage if an explosion takes place on board. This latter probability is a function of the characteristics of the explosive charge (e.g., weight, type, and placement) and the design capacity of the aircraft to withstand the explosive forces and resulting consequences. The aircraft hardening program addresses the vulnerability aspects of aircraft security by determining the vulnerability of aircraft and their occupants to onboard explosions and the methods of reducing this vulnerability through modifications to aircraft structures and/or components, such as luggage containers.

To accomplish the program objectives, tasks were designed to determine and identify: (1) the minimum amount of explosives that

will result in aircraft loss; and (2) the methods and techniques that can be applied to the current and future fleets of commercial aircraft to decrease their vulnerability to explosive effects. The program is divided into two separate projects to address the objectives and requirements: explosive vulnerability and mitigation techniques.

The program draws on experts in the fields of engineering and explosives research from Government agencies within the Departments of Defense and Energy; from private industry such as aircraft manufacturers, luggage container manufacturers, and advanced materials experts; and from other governments/international organizations, such as the United Kingdom's Civil Aviation Authority, the French Direction Generale De L' Aviation Civile in France, and the Government of Israel.

The focus of potential mitigation techniques has been the development of blast-resistant airline luggage containers. The hardening of aircraft luggage containers offers an attractive option as a blast-mitigating technique because a performance-based specification already exists for aircraft luggage containers. A draft appendix to the specification that specifies the FAA's requirements for blast-mitigating containers has been developed. The development of the hardened container specification also allows for the transition of hardened container technology to private industry. However, even with the development of a viable hardened luggage container, research into other mitigation techniques still will be required, because only wide-body aircraft currently use containers. In addition, the possibility exists that other hardening and explosives detection techniques can be developed that could make container hardening unnecessary. Finally, it is critical to determine the effects of blast and possible solutions across the spectrum of aircraft designs as a means of maintaining a technological advantage over future advances in criminal/terrorist explosives technology. The hardened container, however, provides the best opportunity for a near-term solution.

III. Container Hardening

The objectives of this project are to assess the structural and functional readiness of selected hardened luggage container designs and to investigate the operational effectiveness and cost effectiveness of such designs. Ideally, the hardened container would need to have a life-cycle cost that approaches the life-cycle costs of containers currently used by airlines. For example, increases in acquisition and maintenance costs should be balanced by the extended container lifetime of the hardened container.

Hardened containers could be introduced into the airline industry through rulemaking or other regulatory means. Since current luggage containers are replaced on an average of every 2 to 5 years, the introduction of hardened containers into the market might be accomplished through attrition over some agreed-upon period of time.

A. BLAST RESISTANCE OF EXISTING BAGGAGE CONTAINERS

In order to determine the blast resistance of containers currently in use, tests were conducted on containers of the LD–3 classification, beginning with low charge weights and then increasing charge weights until failure took place. Pressure and strain measurements were taken for each test, along with high-speed film for post-test analysis of the explosive event. The test results indicated that the blast loading on the LD–3 structure was dependent on the density of the luggage that contained the explosive, the location of the explosive in the container, and the arrangement of the luggage surrounding the test article. Final analysis revealed that the current generation of LD–3 containers had very little inherent blast resistance capability.

B. POTENTIAL CONTAINER-HARDENING TECHNIQUES

Eight different techniques to harden luggage containers were studied initially. These techniques consisted of both blast containment and blast management concepts. A blast containment design completely suppresses the effects of an explosion within a container. The blast containment concept offers the best alternative for suppressing the potentially catastrophic effects of post-blast fires. In addition, the blast containment container is considered an independent element within the cargo bay environment and requires no special handling procedures for placement and positioning on aircraft on the part of an airline. Conversely, a blast management design considers the container as part of a system within the aircraft cargo bay. In general, the blast management container is designed to allow a controlled failure of the container during the blast, while venting the detonation products (overpressure, fragmentation) into an adjacent container. The disadvantage of the blast management technique is that it requires special handling on the part of an airline. In addition, the blast management concept does not fully address the potentially catastrophic effects of a post-blast fire within a container and container/aircraft structural interaction. Based on the hardening techniques investigated in this study, the results indicated that an explosion could be mitigated best within a blast containment container constructed of high-strength composite materials.

C. HARDENED CONTAINER DEVELOPMENT PROGRAM

Proof of Concept: Under an FAA research project conducted from 1991–1994, several prototype blast-hardened containers were manufactured using a lightweight, high-strength composite material. This material also was chosen for its fragment-penetration resistance and fire-retardant characteristics. The prototypes were of the LD–3 classification, which is the most common type of container used by wide-bodied passenger airlines.

Initial, full-scale tests were performed in January 1992 on two prototype containers to demonstrate the feasibility of the hardened container. In each test, the prototype containers were packed with representative luggage and a plastic explosive charge was placed in a piece of baggage in a controlled location. The containers were instrumented with pressure and strain gages and the blast events

were recorded with both normal and high-speed movie cameras. Although the preliminary results were good in terms of the blast containment properties of the hardened containers, the container door on the first test article failed before the maximum resistive capacity of the new design could be determined. Consequently, the door of the container was redesigned. A second test series was performed in April 1992. In the first two tests of the container with the new composite door, the blast was successfully contained. In the third test at a considerably higher charge level, partial venting occurred as the capacity of the container-door connection was exceeded. All charge weights used were considerably higher than those withstood by current containers.

Using the data obtained from the earlier tests, another prototype container was designed incorporating design refinements from the previous tests. The container weighed 392 pounds, which is within the bounds of current container tare weights. Tested in November 1992 in the same manner as were the previous two designs, the container withstood an explosive charge size that closely approximates the current explosives detection system standard.

Two additional LD–3 prototypes were designed to exhibit an improved strength-to-weight ratio based on insight gained in the testing performed to date. The containers were constructed at a decreased tare weight over previous designs, making them more attractive to the airline industry while they maintained their blast-resistant properties. From 1993–1994, each of the prototypes was tested. The final prototype was successfully tested at an explosive charge size that was equivalent to the existing detection standard with a tare weight of 284 pounds.

Development of Hardened Container Technical Specifications: The Society of Automotive Engineers, developer of the current baggage container specifications, has assisted the FAA in the development of a performance-based appendix to its specification for cargo unit load devices (ULD) that applies to LD–3 class blast-resistant airline baggage containers. This draft specification is dated January 1996. In addition to delineating the required design criteria for a blast-resistant container, the specification also covers the airworthiness and operational requirements with which hardened container designers would need to comply to have their containers certified for use. The explosive size that is required to be contained by the specification exceeds the charge size specified in the Criteria for Certification of Explosives Detection Systems (published in September 1993) to provide a margin of safety.

Development of Hardened Containers Meeting Specifications: The FAA solicited potential developers for hardened container design proposals to meet the FAA-established requirements for blast resistance. The designs were also evaluated for their ability to meet existing FAA airworthiness requirements and conform to airline operational requirements. The solicitation was conducted in two phases. During the first phase (1995–1996), four potential container designs were chosen from a field of 12 respondents. Of the four vendors selected, none of the container concepts tested was able to meet the FAA's requirements for blast resistance.

As a result of the respondents' failure to meet the requirements of the first solicitation, a phase II solicitation was conducted in

1997. As with phase I, vendor's designs submitted under phase II were evaluated based on the blast resistance capability of their designs in addition to airworthiness and airline operational requirements. Two vendors were selected from a field of eight respondents. The two designs selected were tested for compliance to FAA blast-resistance requirements and conformance to FAA airworthiness certification requirements. In March 1998, blast validation testing was conducted on both designs. Of the two designs tested, one container fully met the FAA's blast requirements. The tare weight for the successful container was 340 pounds. The successful container design was submitted to the FAA certification office for airworthiness approval. In July 1998, the design was granted an FAA design letter of approval. Based on available funding, current plans call for the construction of 11 units of the certified container design. The 11 units are scheduled to be delivered by January 1999. Concurrent with this effort, in January 1999, the FAA plans to blast test two more hardened container designs for potential in-service evaluation. Pending airline participation for the operational evaluation phase, it is estimated that enough operational data can be collected to assess the operational viability of blast-mitigating airline baggage containers as outlined in the following section.

In addition, a study of container composite materials manufacturing and repair considerations is underway to obtain an assessment of factors, such as practical and acceptable weight, manufacturing processes, operability, repair and maintenance capability, and associated costs. Work began in the last quarter of fiscal year 1998 and will continue through fiscal year 2000. Those designs that are deemed the most viable will be candidates for study under this activity.

D. AIR CARRIER OPERATIONAL DEMONSTRATION

The purpose of this task is to determine the economic and operational impacts of hardened luggage containers. It will address the explosive resistance and viability of each container, the container tare weight, the manufacturing cost and repair capability of the container, and issues relating to operability. These issues must be addressed before recommendations for rulemaking can be made to ensure that the specifications for hardened containers can be met at a reasonable cost.

As previously mentioned, 11 units of the hardened container meeting the FAA's requirements for blast resistance are scheduled to be delivered by January 1999. These units have been offered by the FAA to Air Transport Association (ATA) member U.S. air carriers for operation on regularly scheduled flights for the purpose of collecting operational, cost, and repair data on hardened containers. With the exception of Northwest Airlines, the ATA member air carriers will not accept these units based on anticipated operational problems because of the container door location and operation. The container currently is being redesigned to address air carrier operational concerns. However, it is anticipated that several design iterations will be necessary, because blast validation is required for each significant design change. ATA member carriers have agreed to have handling personnel evaluate units for oper-

ation of the door mechanisms in winter conditions. This will occur in February 1999.

Tower Air (which operates out of John F. Kennedy International Airport), Northwest Airlines, and the Government of Israel have agreed to employ operationally the units. Tower Air will receive four units, and Northwest Airlines and the Government of Israel will each receive one unit in February 1999. During this deployment, data regarding the functionality, durability of both the panel material and the closure mechanisms, and repair and maintenance will be evaluated. Additionally, units will be destructively tested at established intervals to ensure that degradation of the containers' blast resistance capability has not occurred. The remaining five units will be held in reserve to replace those that are destructively tested.

The cost of the 11 units that currently are being constructed is $38,000 each. If the units are purchased in quantities of more than 1,000 units, the price per unit is estimated to be between $16,000 and $24,000. The price of each aluminum unit used by the airline industry ranges from $1,000 to $2,000, depending on the design and manufacturer.

IV. SUMMARY

The feasibility of blast-resistant baggage containers has been demonstrated under the prototype effort and subsequent FAA solicitation resulting in the successful testing and certification of a unit developed by private industry. This unit is capable of mitigating an explosive threat in excess of the current explosives detection system certification criteria. The development of hardened container design criteria has been completed, resulting in a draft specification for LD–3-type hardened baggage containers. This draft specification provides a vehicle by which the FAA could mandate the use of hardened containers if they are proven to be operationally viable and ensure that these containers will meet or exceed required blast resistance and airworthiness requirements.

Prototype containers will continue to be developed and tested in order to refine existing design requirements and address airline operational issues. Analysis of the operational considerations is being initiated. This includes assessing those factors with which the airlines are most concerned; i.e., container cost, tare weight, repair, operability, and maintainability. This analysis will ensure that specifications for a hardened container can meet a reasonable life-cycle cost. Further work with industry will help ensure that the existing specification is appropriate.

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(4) Annual Report to Congress on Civil Aviation Security, January 1, 1997–December 31, 1997

Report of the Federal Aviation Administration to the United States Congress pursuant to section 44938, Title 49, U.S.C.

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EXECUTIVE SUMMARY

This report presents a summary of events, programs, and accomplishments in civil aviation security in 1997. The year continued the significant changes in direction and emphasis in civil aviation security in the United States that began in 1996 in the aftermath of the ValuJet Flight 592 and TWA Flight 800 tragedies. The White House Commission on Aviation Safety and Security recommended several measures to improve aviation safety and security and ensure that the U.S. aviation system remains the safest and most secure aviation system in the world. The Federal Aviation Administration (FAA) made significant progress this year in implementing many of the White House Commission's recommendations and related legislation.

SIGNIFICANT EVENTS AND ACTIVITIES OF 1997

January

The FAA Security Equipment Integrated Product Team (SEIPT) began installations of explosives detection systems for screening checked baggage in Chicago and New York.

February

February 12, the White House Commission issued its final report, which included 31 recommendations related specifically to aviation security. The FAA has primary responsibility for 21 of these recommendations.

The FAA joined with the Department of Transportation Office of Inspector General to conduct special emphasis testing of air carrier and indirect air carrier unknown shipper packages.

The FAA completed technology training for airport consortia members.

March

March 19, the FAA published a notice of proposed rulemaking (NPRM) to extend background investigations to include screeners.

March 25, the first FAA-exclusive class of K–9 handlers graduated from the Military Working Dog School at Lackland Air Force Base, Texas.

The FAA published an advance notice of proposed rulemaking (ANPRM) on certifying screening companies and improving screener training, which subsequently was delayed until more data become available.

The FAA published the final rule "Sensitive Security Information," to require airports, air carriers, foreign air carriers, and indirect air carriers to restrict the distribution, disclosure, and availability of sensitive security information to persons with a need to know.

April

The FAA and Northwest Airlines completed final programming changes to, and Northwest conducted tests of, the computer-assisted passenger screening (CAPS) system.

May

May 12, the Department of Defense convened and the FAA participated in the Civil Aviation Anti-Missile Defense Task Force in response to a recommendation of the White House Commission on Aviation Safety and Security.

May 14, the FAA issued for comment proposed amendments to the standard security programs for U.S. air carriers, couriers, freight forwarders, and cargo consolidators as well as the model security program for foreign air carriers to enhance aviation cargo security.

May 19, the FAA and the National Academy of Sciences Panel on Assessment of Technologies for Aviation Security signed an agreement to study advanced security equipment deployments and hardened cargo container tests and planned deployments.

May 26, the FAA submitted a report to Congress on its use of additional funding provided for the Dangerous Goods and Cargo Security Program.

June

June 3, the FAA completed a pilot program to examine the feasibility of matching bags with passengers to ensure that the bags of individuals who do not board aircraft are removed from the aircraft in response to the White House Commission's recommendation that passenger-bag matching be implemented for domestic flights.

August

August 1, the FAA publisheed[1] NPRM's to revise parts 107 and 108 of title 14, Code of Federal Regulations.

August 5, the FAA issued a proposal to incorporate security procedures for passengers into the Air Carrier Standard Security Program. This implemented a White House Commission recommendation to ensure that all passengers are positively identified and subjected to security procedures before they board aircraft.

August 19, the FAA Administrator presented the third annual Screener of the Year award to Ms. Betty Jean Davis from Chicago O'Hare International Airport.

October

October 1, the Department of Justice's Civil Rights Division issued its report on its review of automated and manual passenger

[1] Typo in original document.

screening systems, which concluded that the systems did not violate individuals' civil liberties.

October 10, the Vulnerability Assessment of the National Airspace System Architecture of the Final Report for the President's Commission on Critical Infrastructure Protection was issued.

December

December 11, the National Civil Aviation Review Commission (NCARC), which was created by the 1996 FAA Reauthorization Act to examine FAA requirements and financing, issued its final report and funding and safety recommendations to the Secretary of Transportation.

December 23, the FAA Administrator and leading U.S. airlines announced that passenger-bag matching would be expanded using passenger screening to apply explosives detection systems or bag matching to domestic passengers' luggage.

The FAA issued a proposal to amend the ACSSP to strengthen passenger screening and clearance procedures for selectee [1] bags.

The FAA and the FBI conducted their first joint airport vulnerability assessments at Baltimore-Washington International Airport as required by the Reauthorization Act of 1996.

INTRODUCTION

The Federal Aviation Administration (FAA) submits this report pursuant to title 49 of the United States Code, sections 44938 and 44907 (formerly sections 315(a), 316(b), and 1115(a) of the Federal Aviation Act of 1958, as amended). The report presents a summary of events, programs, and accomplishments in civil aviation security in 1997, including passenger, baggage, and cargo screening and domestic and foreign air carrier and airport security.

FAA CIVIL AVIATION SECURITY MISSION

The FAA's aviation security mission is to protect the users of commercial air transportation against terrorist and other criminal acts. Because terrorists seek to destroy public confidence in the safety of air travel and disrupt this vital segment of the U.S. and world economies, the continued growth of commercial air transportation hinges on the effectiveness of aviation security measures. Protecting the infrastructure—FAA facilities and equipment and the employees who operate them—is a critical part of the FAA's aviation security mission.

The FAA mission includes preventing passengers and cargo shippers from transporting hazardous materials or other dangerous goods in a manner that could jeopardize flight safety. The FAA also assists other Federal Government agencies in the interdiction of drugs coming into the United States by air.

The FAA in 1997 continued to improve its baseline civil aviation security system by progressing toward implementation of the recommendations of the White House Commission on Aviation Safety and Security (final report issued February 12), the 1996 Baseline Working Group of the Aviation Security Advisory Committee, the National Civil Aviation Review Commission (NCARC) (final report issued December 11), the President's Commission on Critical Infra-

structure Protection (final report October 10), and the Federal Aviation Reauthorization Act of 1996 and other legislation. The FAA hired 299 special agents and 67 support personnel; entered into partnerships with other Federal Government agencies, airports, and air carriers; conducted research, engineering, and development of advanced explosives detection technology and other advanced security technologies; and procured and deployed new aviation security equipment.

SUMMARY OF PROGRAMS AND ACCOMPLISHMENTS

This section summarizes key aviation security program areas and highlights the new and expanded program activities driven by the recommendations of the White House Commission on Aviation Safety and Security and the Baseline Working Group of the Aviation Security Advisory Committee, legislative mandates, and the aviation security environment of 1997.

PARTNERSHIPS

The responsibility for aviation security is a shared one. The FAA assesses threats and develops, communicates, and enforces appropriate security measures. Air carriers are responsible for applying security measures to passengers, service and flight crewmembers, baggage, and cargo—in short, everyone and everything that enters aircraft. Airports are responsible for maintaining a secure ground environment and for providing local law enforcement support. Other Federal agencies, including the Federal Bureau of Investigation and the U.S. Customs Service, have jurisdiction at airports and the responsibility to contribute to aviation security. Also important is the cooperation of passengers and shippers.

Airport Consortia

The FAA formed consortia involving airport and air carrier officials and law enforcement agencies with responsibility for aviation security at 41 major U.S. airports in 1996 in response to a recommendation by the White House Commission on Aviation Safety and Security. The FAA delayed forming additional consortia during much of 1997 to resolve some compliance and enforcement policy issues. Plans are underway to convene voluntary consortia at over 100 airports.

Technology training was provided to over 500 airport consortia members in four locations across the country in 1997. The training gave the consortia members an overview of explosives detection systems and capabilities to help prepare the members for FAA deployments of security equipment. The training was videotaped to allow further distribution of the information.

Aviation Security Advisory Committee

The Aviation Security Advisory Committee (ASAC) is an important partnership of the DOT and FAA, other Federal Government agencies, the aviation industry, and the flying public. The Secretary of Transportation established the ASAC in 1989 in the aftermath of the bombing of Pan Am flight 103 as a forum for improving civil aviation security. In 1997, the ASAC chartered working

groups to address issues like cargo security, public education, consultation, employee utilization and recognition, critical infrastructure protection, and airport categorizations. The full ASAC met in March and July 1997.

AIR CARRIER AND AIRPORT SECURITY

The Code of Federal Regulations (CFR) requires the implementation of security programs by airports and air carriers. These security programs contain procedures to prevent or deter aircraft hijackings, sabotage, and other criminal acts. The FAA and the aviation industry constantly review the procedures to ensure their effectiveness in countering threats to civil aviation.

Air Carrier Security

In 1997, 152 U.S. scheduled or charter air carriers were required to follow FAA-approved security programs. Each of these carriers has adopted the Air Carrier Standard Security Program (ACSSP), developed by the FAA in consultation with the industry. The program requires each air carrier to implement standard security procedures. The FAA has the authority to amend the ACSSP when safety and the public interest require it, after providing air carriers time to review and comment on proposed amendments. If immediate action is necessary, the FAA may issue emergency amendments to the ACSSP that are effective upon receipt. Under CFR 108.18, the FAA also may issue temporary requirements for immediate action through security directives.

In July 1997, the FAA revised and reissued for comment a proposal to incorporate security procedures for passengers into the ACSSP. The final revision was issued August 5. In December, the FAA proposed a further change that also implemented a White House Commission recommendation to strengthen passenger screening and clearance procedures for selectee bags. The change would require airlines to perform identification and passenger questioning and to apply computer-assisted passenger screening or domestic selection criteria, an additional random selection percentage, and clearance procedures for selectee bags.

Principal Security Inspector (PSI)

Principal security inspectors (PSI) are assigned to certificated U.S. air carriers that are required to adopt security programs under part 108 of title 14 of the CFR (14 CFR) and to each foreign air carrier subject to 14 CFR part 129. The PSI's serve as liaisons between the FAA and the air carriers' corporate security offices, representing the Associate Administrator for Civil Aviation Security and all FAA security field elements. The PSI's work closely with the carriers' corporate security representatives to address areas of concern and to ensure the carriers' compliance with FAA requirements. The PSI's also are responsible for approving and issuing amendments to the air carriers' individual security programs as well as providing FAA policy guidance to the air carriers when regulations are developed or revised. The PSI's also approve and monitor the air carriers' security training curricula.

Model Vulnerability Assessments

The FAA contracted with private sector firms to conduct vulnerability assessments in 1997 using various models to determine which model is really the best and most appropriate for use at airports.

Eight contractors have been assigned 14 major airports to assess. The planning stage has been completed, and teams at 6 airports have completed onsite data collection activities. Fourteen out of 28 volunteer candidate airports will be engaged in helping to test and evaluate the models used in these assessments. The FAA expects the assessments to be completed in 1998.

Airport Security

U.S. and foreign scheduled and charter air carriers serve 459 airports within the United States that are regulated under 14 CFR part 107. Each airport is required to adopt and use a security program to provide a secure operating environment for air carriers. Of the regulated airports, 19 are designated as category X based on passenger traffic, complexity, and other special considerations.

The Federal Aviation Reauthorization Act of 1996 mandated that the FAA and the FBI regularly conduct joint threat and vulnerability assessments of high-risk airports. The FBI also must designate aviation security liaisons in or near cities served by these airports. An FAA/FBI working group was formed in November 1996 to identify airports where the vulnerability assessments should be conducted on a priority basis.

An initial group of such airports has been identified and is being assessed as part of this program. The FAA and the FBI conducted their first joint airport vulnerability assessment at Baltimore-Washington International Airport in December 1997. Efforts to finalize a draft FAA/FBI security liaison agreement continue.

Federal Security Manager (FSM)

Federal security managers (FSM) represent the Associate Administrator for Civil Aviation Security at the 19 category X airports. FSM positions were created by law and have been maintained by the FAA since October 1, 1991. As the FAA's designated security representatives, the FSM's maintain direct communication with key airport officials, airline managers, and law enforcement authorities. Their principal responsibilities are coordination and oversight of all operational security activities at their respective airports.

COMPLIANCE AND ENFORCEMENT

The FAA has an ongoing and aggressive compliance and enforcement program that is carried out by regional offices under national direction. While striving to achieve compliance through cooperation, the FAA must ensure that regulated parties such as air carriers, airports, and shippers of dangerous goods are in compliance with applicable regulations and security programs.

Assessments and Testing

The compliance and enforcement program includes regularly scheduled comprehensive assessments. During the assessments, special agents identify security violations and weaknesses and work with industry personnel to correct deficiencies. Special agents also conduct supplemental assessments, including special emphasis assessments that target specific areas or procedures in the aviation security system. All assessments include any one method or a combination of methods: surveillance, interviews, documentation reviews, and testing.

The White House Commission on Aviation Safety and Security recommended that the FAA require industry to conduct security audits and that the FAA then perform unannounced and aggressive testing (realistic operational testing). The FAA conducted seven nationally directed systemwide rounds of this testing to determine compliance with specific security requirements. The rounds tested passenger screening, positive passenger-bag matching procedures, and questioning and resolution procedures. The rounds were unannounced (with the exception of one test) and were covert. The results indicated that the air carriers needed to improve in the areas tested.

Voluntary Disclosure Encourages Problem Fixing

To achieve maximum participation and encourage complete disclosures of vulnerabilities, the FAA revised its voluntary disclosure policy to apply to disclosures made by airports, air carriers, indirect air carriers, and foreign air carriers (under their FAA-approved security programs), including disclosures that are made during airport consortia activities. This policy will become effective in 1998. When a disclosure that satisfies the requirements of the voluntary disclosure policy is made during a consortium activity, all parties to the consortium can participate in the development of a comprehensive fix plan—with participation by the FAA—without the threat of legal enforcement action against the disclosing entity unless the comprehensive fix plan is not satisfactorily implemented. In every case, immediate but temporary corrective action is required until the comprehensive fix is in place.

Enforcement

The FAA strives to gain industry compliance with aviation security requirements through performance-based partnerships, which encompass cooperation and communication before violations occur. When there are violations, the FAA seeks to ensure immediate corrective action by: encouraging voluntary disclosure of problems; working with industry in a counseling mode to help resolve problems and identify ways to prevent future violations; and, in instances where warranted, pursuing enforcement actions, including issuing warning notices, letters of correction, civil penalties, or other orders of the Administrator that might be appropriate.

A 1-year pilot of the Streamlined Enforcement Test and Evaluation Program (STEP), prompted by a recommendation of the 1993 National Performance Review, concluded in 1996. The pilot program tested an alternative method of processing civil penalties for certain violations by individuals attempting to pass weapons

through screening checkpoints. Positive results were so immediate that the FAA adopted the program nationwide before the test period ended. Under STEP, the average time to process a case decreased over 90 percent, 31 percent more people paid their sanctions, and the payments were over 60 percent higher than expected.

In 1997, the Office of Civil Aviation Security, in conjunction with other FAA lines of business, began working on ways to streamline the enforcement investigative reports to make the reports less redundant and easier to write and to provide better information to the legal offices in case proposed actions are appealed.

Violations at the Checkpoint

Individuals who attempt to bring weapons, explosive devices, or other dangerous articles through screening checkpoints are subject to enforcement actions. They may also be subject to arrest by local law enforcement officials. The following table summarizes the estimated number of people screened through checkpoints, the number of weapons detected, and the number of people arrested between 1993 and 1997.

Civil Aviation Security Airline Passenger Screening Results, 1993–1997

Year	CY 1993	CY 1994	CY 1995	CY 1996	CY 1997
Persons Screened (Millions)	1,150.0	1,261.3	1,263.0	1,496.9	1,659.7
Weapons Detected:					
Firearms	2,798	2,994	2,390	2,155	2,067
Handguns	2,707	2,860	2,230	1,999	1,905
Long guns	91	134	160	156	162
Persons Arrested:					
Carriage of firearms/explosives	1,354	1,433	1,194	999	924
Giving false information	31	35	68	131	72

AVIATION SECURITY: PEOPLE

The effectiveness of the aviation security system depends on the capabilities and integrity of the people who screen passengers and their possessions.

In 1987, the FAA amended the ACSSP to require air carriers to detect FAA weapons and simulated explosive devices. The agency began taking enforcement actions against air carriers failing to detect FAA test objects.

Screeners should not be trained merely to detect FAA test objects; the FAA requires that they be trained to detect actual weapons, firearms, and explosive devices. But because they were tested with a small number of approved test objects, an unintended consequence was that screeners specifically looked for those test objects. New and more challenging test objects and methods were necessary to portray more realistically the explosives and techniques used by terrorist groups.

To drive up screener performance further, the FAA is preparing a rulemaking on certifying screening companies and improving

screener training. The FAA is gathering data from automated testing with threat image projection to develop performance standards for screeners.

The FAA expects to publish a notice of proposed rulemaking that includes certification standards in 1999.

In August 1997, the FAA initiated a nationally focused special emphasis assessment of screener evaluation testing. The main aspect of the assessment was to implement realistic testing and to ensure that bags were packed consistently by special agents using common items carried by passengers.

The assessment included approximately 950 tests (including weekend testing) conducted by agents who were not known to the screeners.

Screener of the Year

Individuals working on the front lines of aviation security were recognized by the FAA during the third annual Screener of the Year award ceremony on August 19. Betty Jean Davis, a checkpoint security supervisor at Chicago O'Hare International Airport, received this year's award. She was selected from among nine regional winners. Nominees for the award displayed specific and sustained superior performance in aviation security.

The FAA, the Air Transport Association, the Regional Airline Association, the Air Line Pilots Association, and the National Air Transportation Association cosponsored the awards.

Improving Performance

The FAA Human Factors Program began an extensive research effort to enhance screener capabilities. The FAA developed the Screener Proficiency Evaluation and Reporting System (SPEARS), which contains several components, including computer-based training (CBT) and threat image projection (TIP). CBT automates screener training and tests screeners on the material learned, including the ability to detect images of bombs in baggage. TIP electronically projects fictitious images of bags containing bombs or other threat objects on x-ray screens. This training device keeps screeners alert, provides real-world conditions, and measures screener performance.

Screener performance will be assessed in the field for both carry-on bags and checked bags. CBT was introduced in 1997 to category X airports. In 1998, SPEARS will be deployed to select category 1 airports.

Information and Access Control

Aviation security is as dependent on the integrity of people who have access to secure areas and information as it is on the capabilities of those people who are associated with the passenger screening process. Rulemaking activities in 1997 included efforts to control unescorted access to restricted areas of airports and restrict the release of sensitive security information.

The FAA published a notice of proposed rulemaking on March 19 to extend employment background checks to include screeners and their supervisors. The rule would require employment history investigations of these individuals and fingerprint-based criminal

records checks of some of them. The comment period closed on May 19. The final rule will be published in 1998.

Also in March, the FAA published a final rule, "Sensitive Security Information," to require airports, air carriers, foreign air carriers, and indirect air carriers to restrict the distribution, disclosure, and availability of sensitive security information to persons with a need to know.

Universal Access System

In May 1993, Congress appropriated $2 million for the FAA to develop and initiate the implementation of a universal access system (UAS) to eliminate problems associated with multiple airport security systems, without unnecessary duplication or costly reconfiguration.

While a portion of allocated funds was used to develop functional specifications, technical standards, and a test plan, the majority of the funds were used to conduct operational tests and evaluations of the most promising configurations.

Operational testing began in January 1996 at Miami International Airport with Delta Air Lines transient employees. In March 1996, the UAS Test Program began at Detroit Wayne County Airport with Northwest Airlines transient employees. There were approximately 50,000 active air carrier employees in the UAS centralized data base.

While testing was completed in 1997, the UAS doors at Miami and Detroit and the centralized data base at Atlanta remained operational. Throughout the year, several other airports and airlines decided to participate in the UAS based on the body of work that was generated.

Domestic Aviation Security Training

The FAA develops and manages an extensive training program for FAA personnel and others with responsibility for civil aviation security. Aviation security training for FAA specialists is conducted as resident training at the FAA Academy in Oklahoma City, in regional locations, and via interactive video training. The Department of Defense, the Federal Law Enforcement Training Center, and other vendors provide specialized training in physical security, criminal investigations, and other topics at various locations throughout the country. The FAA trained 944 FAA students in basic and advanced aviation security and internal security programs in 1997.

The FAA also conducts seminars and training for State and local law enforcement officers and for airport and air carrier managers and security personnel to encourage successful implementation of policy and regulations and to counter the terrorist threat to air transportation. In 1997, the FAA trained 131 non-FAA students in 5 locations in the continental United States.

Appendix I lists the FAA training courses and student distributions.

AVIATION SECURITY: TECHNOLOGY

The skills and integrity of the people involved with aviation security are only part of what makes the aviation system secure. The

people must have effective equipment to do their jobs. The FAA and its partners in aviation and other industries work together to pursue advancements in technology and integrate them into the civil aviation security system to enhance the security of the flying public.

Safe Skies

Under an agreement between the FAA and an alliance of industry, academia, and Government organizations, the agency will gain an airport operational testing site for newly developed security technologies.

A 1997 memorandum of understanding (MOU) provided about $1 million to the National Safe Skies Alliance, a nonprofit group that includes the McGhee Tyson Knoxville Airport, Oak Ridge National Laboratories, Honeywell Corporation, American Engineering, Inc., and the University of Tennessee. The centerpiece of the cooperative agreement is the creation of a site for testing new checkpoint screening technologies at McGhee Tyson Knoxville Airport. The program is designed to gauge reactions from the flying public while monitoring the performance of security equipment under actual operating conditions.

The MOU also includes several research and development projects, including studies of airport vulnerability assessments; system integration for security equipment and procedures; explosives detection systems development and testing; and airport and air carrier security operations simulation and modeling.

FAA Integrated Product Team

In October 1996, FAA formed a Security Equipment Integrated Product Team (SEIPT) of acquisition and security experts representing the FAA, airport authorities, and air carriers. The team's objective is to plan, purchase, and install explosives detection devices and other advanced security equipment at U.S. airports.

In 1997, the team began deploying equipment purchased with $144 million provided by the Omnibus Consolidated Appropriations Act of 1997 to implement the recommendations of the White House Commission on Aviation Safety and Security.

Bulk Explosives Detection

Technology today offers different kinds of equipment designed to detect bulk explosives that may be concealed in checked baggage. The equipment varies in the types and amounts of explosives it may detect. Section 108.20 of 14 CFR requires air carriers to use explosives detection systems approved by the FAA to screen checked baggage on international flights when the Administrator so requires. The InVision CTX 5000, which uses computed tomography, was approved in 1994 and remained the only FAA-certified EDS in 1997.

The White House Commission on Aviation Safety and Security recommended checked baggage screening for domestic flights and funding for checked baggage screening equipment. In December 1996, the FAA purchased 54 certified EDS for screening checked baggage. The SEIPT began installation of the equipment in Chicago and New York in January 1997. By December, EDS's were

operational in six U.S. cities, with deployments to several more cities planned for 1998. In line with the Commission recommendations, FAA is supplementing the deployment of certified EDS with deployment of other advanced technology for checked baggage screening. These 22 units include enhanced x-rays and other commercially available devices.

Explosives Trace Detection

Explosives trace detection devices have been used to screen carry-on bags and electronic items at airport screening checkpoints since November 1996. Using various technologies, explosives trace detectors can detect explosive vapors and particles. By the end of 1997, the FAA had purchased 220 trace detectors and deployed 128 of these to 30 airports. The FAA plans to purchase 260 more trace detectors by the end of 1998 to use at screening checkpoints and to assist in resolving checked baggage screening alarms from EDS's.

Computer-Assisted Passenger Screening (CAPS)

The large numbers of passengers and bags moving through the aviation system require the use of existing technology to apply time-consuming but necessary security measures. Passenger screening makes the most of limited security resources to keep the aviation system functioning close to current capacity. The computer-assisted passenger screening (CAPS) system was developed by the FAA through a grant to Northwest Airlines in September 1996, which included exporting CAPS to other airlines' reservation systems. CAPS was tested operationally on selected flights in Northwest's system in March and April 1997. All other major airlines covering all major reservations systems were given CAPS profiling factors and weights on May 7. A 1997 Department of Justice report on CAPS found that it does not violate individuals' civil liberties.

Passenger Bag Matching Using CAPS

On December 23, the Administrator of the FAA and leading U.S. airlines announced that passenger-baggage matching will be expanded using CAPS to apply either examination by explosives detection systems or bag matching to domestic passengers' luggage. This is in response to a recommendation by the White House Commission on Aviation Safety and Security that full passenger-baggage matching with automated or manual passenger screening be implemented by December 1997. This process includes matching passengers to baggage to ensure that no unaccompanied bags enter the system. Implementing rulemaking is underway.

Aircraft and Container Hardening

The Aircraft Hardening Program was initiated in 1990 in response to the directives of the President's Commission on Aviation Safety and Security and the mandates set forth in the Aviation Security Improvement Act of 1990.

The goal of the FAA Aircraft Hardening Program is to protect commercial aircraft from catastrophic structural damage or critical system failure resulting from in-flight explosions. Secondary objec-

tives are to investigate vulnerabilities from the interference of electromagnetic or high-energy signals with aircraft electronic systems and to assess the threat presented by manually operated, highly mobile surface-to-air missiles.

The Hardening Program has included implementing vulnerability studies, explosives testing of current and hardened luggage/cargo containers, and researching manufacturing and maintenance issues associated with hardened structures.

Major program accomplishments for 1997 include: (1) completed operational assessment of LD–3 hardened containers; (2) identified and validated new aircraft vulnerability techniques; (3) identified possible mitigation techniques to counter projected energy and other threats; and (4) developed procedures and rules for man-portable air defense systems (MANPADS).

Aircraft Vulnerability Testing

The FAA, along with the United Kingdom's Civil Aviation Authority, blew up a Boeing 747 on May 17 as part of a joint effort to study the effects of bomb blasts on commercial wide body aircraft and how to protect against them. Specifically studied were baggage containers and liners developed for cargo areas that would allow aircraft to survive bombings without ruptured fuselage. Four simultaneous explosions were set off in the front and rear cargo holds of the retired 747, which had been pressurized to simulate flight at approximately 35,000 feet.

The results were expected, but startling all the same, as the section behind the wing sheared off near the unprotected rear cargo area. The test results provided important information on methods to protect aircraft from blast events.

National Academy of Sciences Panel

In response to a requirement of the Federal Aviation Reauthorization Act of 1996, the National Academy of Sciences Panel on Assessment of Technologies for Aviation Security was established in 1997. The panel will assess the results of the current advanced security equipment deployments, hardened cargo container tests, and planned future deployments and will recommend how to deploy explosives detection systems and hardened containers more effectively to improve security.

OTHER SAFEGUARDS

Programs and measures other than screening also offer safeguards to protect the flying public and the personnel and facilities that keep the aviation system running smoothly.

Interference with Flightcrews Pilot Project

A pilot program designed to deal more effectively with unruly passengers made favorable progress in 1997. The pilot program was begun in November 1996. It is a comprehensive effort led by selected FAA civil aviation security field offices in the Western-Pacific and Eastern Regions and involving air carriers, crewmembers, airport law enforcement agencies, the FBI, and U.S. attorneys to ensure proper and adequate handling of serious in-flight interference with crewmembers (including criminal prosecution if war-

ranted). Approximately 56 incidents on approximately 16 domestic and 10 foreign flag air carriers in specific locations were reported under the program in 1997.

K–9 Explosives Detection

The FAA instituted a program to reimburse partially airports that volunteer to participate in the FAA's Explosives Detection K–9 Team Program. This is in response to the White House Commission's recommendation that the FAA significantly expand the use of bomb-sniffing dogs through the deployment of 114 additional K–9 teams. Approximately $8.9 million from the Omnibus Consolidated Appropriations Act provided partial reimbursements to the original 87 K–9 teams and the additional teams. The FAA is continuing to work with airports in an effort to expand the K–9 program at each of the 76 largest U.S. airports. By the end of fiscal year 1998, 40 airports are expected to be participating in this voluntary program. The first FAA-exclusive class of K–9 handlers graduated from the Military Working Dog School at Lackland Air Force Base, Texas, on March 25.

In May 1997, the FAA instituted the requirement that all FAA K–9 coordinators participate in FAA K–9 Trained-on-System (KATS) training. KATS is an automated system that provides up-to-date information concerning K–9 proficiency training conducted onboard domestic aircraft. The FAA's goal is to expand this program to encompass all explosives detection training conducted on U.S. aircraft.

Federal Air Marshal

The Federal Air Marshal (FAM) Program provides an armed security force whose mission is to protect the traveling public and flightcrews on U.S. air carriers by deterring criminal and terrorist acts that target aircraft in flight. FAM's undergo specialized law enforcement training and maintain very stringent physical fitness and firearms proficiency standards. The FAM operational training facility is located at the FAA William J. Hughes Technical Center, Atlantic City, New Jersey. The FAM force is capable of rapid deployment worldwide. During 1997, FAM's provided in-flight security on flights of all major U.S. air carriers to and from 82 cities in more than 50 countries. Just knowing that FAM's could be on board aircraft may deter individuals planning to interfere with flights.

Dangerous Goods and Cargo Security Program

The Dangerous Goods and Cargo Security (DG/CS) Program is responsible for ensuring that shipments of dangerous goods (hazardous materials) and other cargo by air are made safely and in accordance with established regulations.

The DG/CS Program has approached the problem of compliance through a combination of enforcement, trend analysis, and outreach. Dangerous goods and cargo security inspections are being conducted at air freight forwarder facilities, aircraft repair stations, and air shipper facilities as well as at air carrier facilities.

Inspections and other program activities are underway at foreign locations for air carriers and others involved in the air transport

of dangerous goods and cargo. Data systems have been developed to target shippers or carriers who are repeat offenders or who handle materials that present a higher degree of danger. In addition, outreach efforts are focusing on particular groups demonstrating lax attitudes or ignorance or misunderstanding of dangerous goods regulations.

Focused inspections were conducted in four major cities in 1997, targeting air carrier repair stations, indirect air carriers, air carriers, and shippers. A cargo security special emphasis assessment on air carrier small package acceptance was performed as well as three cargo security special emphasis assessments conducted jointly with the DOT Office of the Inspector General. Depending on the violations uncovered, responses ranged from consultation and information to proposals of civil penalties or even criminal charges.

A major emphasis in 1997 was the use of conferences, safety advisories, brochures, and a new video to educate the public and the regulated industry on shipping dangerous goods. The FAA has become increasingly involved in ongoing meetings and discussions with all major air transport trade associations. The FAA distributed a safety advisory that outlined requirements for transporting air carrier company materials and oxygen generators to approximately 5,000 air carrier repair stations. Also, the FAA produced jointly with the DOT Research and Special Programs Administration a new video entitled "Ensuring Safety: Transporting Hazardous Materials by Air." The video offers a comprehensive overview of dangerous goods regulations to help educate the regulated public.

Courier Shipments Reviewed

Security controls over accompanied commercial air courier shipments underwent closer scrutiny in 1997. The FAA and the DOT Office of the Inspector General have been performing intensive oversight inspections of such shipments presented for flight aboard passenger-carrying aircraft to ensure that: (1) air carriers and indirect air carriers are following FAA-approved security programs; (2) indirect air carriers are declaring and documenting all shipments, including hazardous materials; and (3) shippers are properly packaging, marking, labeling, and documenting all hazardous materials. The FAA Office of Civil Aviation Security has been reviewing FAA requirements and procedures for accompanied commercial air courier shipments.

Cargo Baseline Working Group

The Cargo Baseline Working Group (CBWG) of the Aviation Security Advisory Committee (ASAC), formerly the Cargo Working Group (CWG), was formed in September 1996 to develop an effective and efficient security baseline for air cargo. Its membership includes representatives from all elements of the cargo industry. The group provided recommendations to the ASAC that were included in the "ASAC Domestic Security Baseline Final Report," submitted in September 1996.

After the White House Commission on Aviation Safety and Security recommended that the FAA implement a comprehensive plan to address the threat of explosives and other threat objects in cargo

and that it work with industry to develop new cargo security initiatives, the group was reconvened. The CBWG compared the White House Commission recommendations with those of the ASAC and provided amplified recommendations to the ASAC.

In May 1997, the FAA issued proposed amendments to the standard security programs for U.S. air carriers, couriers, freight forwarders, and cargo consolidators as well as the model security program for foreign carriers to enhance aviation cargo security. Several major changes are being proposed as a result of recommendations made by cargo industry representatives, including "known" versus "unknown" shipper criteria and specific cargo screening procedures. The revised proposed amendments are expected to be published for comment in 1998.

Drug Interdiction

Investigations conducted by special agents in the Drug Investigations Support Program (DSIP) resulted in 248 airmen certificate revocations in 1997. The 248 revocations are due to the success of the FAA/Federal Bureau of Prisons and Federal Probation and Parole match programs in which inmate, probation, and parole records are matched against the Airmen Registry. Airmen convicted for drug smuggling are subject to certificate action.

There were also 45 airmen certificate suspensions and 4 aircraft registration certificate revocations in 1997.

Protecting the Infrastructure

The FAA continued in 1997 the steady development of its Security Risk Management (SRM) Program to implement the standards called for in the Department of Justice (DOJ) report of June 28, 1995, the recommendations of the President's Commission on Critical Infrastructure Protection, and other national policy guidance to reduce the vulnerability of the agency's employees and critical infrastructure to criminal and terrorist attacks.

In its full scope, the SRM Program is designed to be a joint effort on the part of all lines of business within the agency to address on a continuing basis the security risk management needs of the FAA's more than 47,000 employees and contractor personnel. It also ensures the integrity of the FAA's critical infrastructure and National Airspace System support capability by establishing and maintaining through security risk management an acceptable level of risk of criminal and terrorist attacks at the agency's more than 1,000 staffed facilities and 8,500 unstaffed facilities.

The Administrator created the Facility Security Risk Management Committee (FSRMC) in 1995, with representation from all FAA lines of business, to oversee and monitor the SRM Program and to report to and advise the Administrator on the status and conduct of SRM agencywide.

Joint SRM assessments of the FAA's assets are continuing, with priority emphasis on identifying the vulnerabilities and risks to FAA personnel and to the agency's other most critical assets.

President's Commission on Critical Infrastructure Protection (PCCIP)

The PCCIP was established in July 1996 to conduct a comprehensive review of and recommend a national policy and implementation strategy for protecting critical infrastructures against physical and cyber threats and ensuring their continued operation.

The PCCIP submitted its report, "Critical Foundations Protecting America's Infrastructures," in October 1997. The report contains the recommendations of the Vulnerability Assessment of the National Airspace System (NAS) to protect the modernized NAS from information-based and other attacks.

INTERNATIONAL AVIATION SECURITY

Aviation security is a worldwide concern. The FAA's security efforts are focused primarily on U.S. airports, U.S. air carriers, wherever they fly, and foreign air carriers that service the United States. But the FAA and other governments work together to raise the levels of security provided by all air carriers and airports. Global aviation requires global cooperation to ensure aviation security.

International Civil Aviation Organization (ICAO)

ICAO is a specialized agency of the United Nations that was established by the Chicago Convention in December 1944. ICAO establishes international aviation security Standards and Recommended Practices (SARP) for its 183 Member States. The Associate Administrator for Civil Aviation Security works closely with ICAO to strengthen these standards and to ensure compliance with them throughout the international aviation system. Amendment 9 to Annex 17 of the Chicago Convention, which raises cargo security, was approved by the ICAO council to become effective on April 1, 1997, with an implementation date of August 1, 1997. The Aviation Security Panel, comprising representatives from 15 Member States and a number of industry observers, met in September 1997.

Recognizing the importance of aviation security in ICAO and the needs of its expanded aviation security office, the United States continues to provide two FAA security specialists for ICAO at no expense to the organization. ICAO uses these specialists to conduct security surveys and training for countries in need throughout the world.

European Civil Aviation Conference (ECAC)

The ECAC is an intergovernmental consultative organization that was established in 1955 by the Council of Europe with the active support of ICAO. ECAC's objectives are to encourage the safe and orderly development of civil aviation to, from, and within Europe. The Conference in 1997 comprised 37 Member States.

In the field of security, ECAC's objective is to ensure the maximum level of security possible within ECAC and with its partners serving its airports. ECAC Member States apply ICAO Annex 17 standards and recommended practices. In addition, supplementary measures appropriate to the conditions pertaining to Europe are promulgated by ECAC through its frequently revised security manual. While the aviation security measures contained in the manual

are not mandatory, the expectation within ECAC is that all Member States will comply. The United States (FAA), Canada, and Israel have been granted permanent observer status on the ECAC Security Committee.

Civil Aviation Security Liaison Officers (CASLO)

Civil aviation security liaison officers, in all but four instances, are located overseas. There currently are 20 CASLO's who report directly to the Associate Administrator for Civil Aviation Security. They are the primary FAA contacts with U.S. embassies and host governments on civil aviation security matters. Primary responsibilities include helping U.S. and foreign air carriers implement FAA security requirements, the exchange of threat information, and onsite FAA coordination during aviation security incidents. Appendix II lists CASLO locations and the geographic areas covered.

Foreign Air Carrier (FAC) Security

CFR part 129 requires foreign air carriers operating to the United States to submit security programs to the FAA for acceptance for their operations to, from, and within the United States. The foreign air carriers may adopt the model security program (MSP) prepared by the FAA, submit their own security programs for review, or refer the FAA to foreign governments that perform security procedures at last points of departure to the United States.

At the end of 1997, there were 173 foreign air carriers operating to and from the United States that were required to have security programs acceptable to the FAA Administrator. All foreign air carriers have been required since September 1992 to adopt a security program acceptable to the FAA Administrator for operations to and from the United States. Foreign air carriers have adopted either the FAA's MSP or have submitted acceptable programs that meet the performance standards contained in the MSP.

The FAA continuously assesses threats against all foreign air carriers and will not hesitate to discuss and, if necessary, impose additional security measures to meet any threat.

Identical Measures

The Antiterrorism and Effective Death Penalty Act, passed by Congress in April 1996, changed 49 U.S.C. section 44906. Formerly, the FAA was required to ensure that passengers were provided a level of protection when flying to or from the United States on foreign air carriers similar to that provided when flying on U.S. air carriers from those same airports. The Act changed section 44906 to require foreign air carriers traveling to and from U.S. airports to have security measures identical to those for U.S. air carriers flying from those same airports. A notice of proposed rulemaking on identical security measures for foreign air carriers was forwarded in April 1997 to the Office of the Secretary of Transportation for final review.

Foreign Airport Assessments

Chapter 449 of title 49 of the United States Code requires the Secretary of Transportation to assess the effectiveness of the security measures maintained at foreign airports: 1) served by U.S. air-

lines; 2) from which foreign airlines provide service to the United States; 3) that pose a high risk of introducing danger to international travel; 4) and at other airports considered appropriate by the Secretary of Transportation.

In 1997, approximately 225 foreign airports qualified for assessment under the law; this number fluctuates as changes in air carrier service occur. The number of FAA assessments conducted at each foreign airport is determined by criteria like current resources and threat conditions.

The FAA focuses resources on those airports that may have difficulty sustaining effective security measures. These focused efforts include interagency actions to alert aviation officials to potential vulnerabilities. This enables the respective host governments to take action to resolve security concerns before serious deficiencies develop. When the determination has been made that a foreign airport does not administer and maintain effective security measures, the Secretary of Transportation may initiate action such as public notification or suspension of service.

The FAA conducted 80 foreign airport assessments in 1997. As a result of these assessments, the FAA sought to strengthen the international civil aviation security system by offering security enhancement recommendations to airport and government officials from multiple countries. Most of the recommendations fell into the categories of access control, airport administration, passenger screening, airport emergency planning, national administration, baggage and cargo security controls, and law enforcement support. Onsite training and technical assistance were offered on numerous occasions.

In 1997, a secretarial action for Lagos, Nigeria, was in effect. On October 8, 1992, an assessment of Murtala Muhammed International Airport in Lagos resulted in the issuance of immediate public notification without the usual 90-day action notice. As a result of public notification, the FAA provided technical assistance and security training to the Nigerian Government for 9 months.

In July 1993, a second assessment was conducted in Lagos. On August 11, 1993, the Secretary of Transportation suspended air service between the United States and Lagos, citing the failure of cognizant authorities to correct deficiencies satisfactorily. Another assessment was conducted in April 1994, and the Secretary determined that the suspension should remain in effect. An interagency team returned to Lagos in November 1995 to evaluate the impact of corruption on aviation security. As of the end of 1997, the Secretary's suspension order remained in place.

International Aviation Security Training

The FAA provides aviation security training to international airport managers from developing countries. In 1997, 187 students from 5 countries attended training at the FAA Academy in Oklahoma City and in Saudi Arabia. Courses and student distribution are listed in Appendix I.

The FAA also participates in the Department of State (DOS) Anti-Terrorism Assistance Program (ATAP). This program provides technical assistance to foreign countries by conducting training needs surveys of foreign airports. The results may lead to ATAP's

providing either the aviation security training or technical support, or both, necessary to bring the airport into compliance with ICAO standards.

Senior foreign government officials responsible for aviation security participate in intensive training programs that enhance their ability to administer comprehensive programs designed to prevent or deter violent criminal acts against aviation. This cooperative effort with DOS ensures that the security concepts and techniques are integrated and applied worldwide to enhance aviation safety and security.

In 1997, ATAP provided technical assistance to Ethiopia, and training needs surveys were conducted in Saudi Arabia, Ethiopia, Eritrea, Uganda, Yemen, United Arab Emirates, Qatar, and Kuwait. Also, ATAP provided training for students from El Salvador, Senegal, Malaysia, Honduras, and Saudi Arabia in airport security management at the FAA Academy in Oklahoma City and in Saudi Arabia.

CONCLUSION: CRIMINAL ACTS AGAINST CIVIL AVIATION

During 1997, the FAA continued its efforts to implement the recommendations of the White House Commission on Aviation Safety and Security, demonstrating its commitment to strengthening the security of the U.S. civil aviation system. Aviation security partnerships, legislation, funding, and the application of additional and enhanced security measures have made the U.S. aviation system less vulnerable to criminal and terrorist acts. Continuing to apply additional Federal, State, local, and aviation industry resources to combating criminal and terrorist acts against U.S. civil aviation should help ensure that the U.S. civil aviation will remain the safest and most secure aviation system in the world.

When TWA flight 800 exploded in midair off Long Island in July 1996, a bomb explosion or a missile attack was suspected. Although the National Transportation Safety Board has not determined the exact cause of the crash, it has ruled out the possibility of a bomb or a missile and believes that catastrophic mechanical failure was to blame.

Nearly 10 years have passed since the last bombing of a U.S. civil aviation aircraft—Pan Am flight 103 in 1988. The threat of such an attack against U.S. civil aviation has not disappeared, however, as proven by events of several years ago.

In January 1995, Philippine police uncovered a plot to blow up as many as 12 U.S. airliners operating from the Pacific region. This plot involved the placing of explosive devices on U.S. air carriers operating from overseas locations. The mastermind of the plot, Ramzi Ahmed Yousef, was convicted in a U.S. court in September 1996 for his role in this conspiracy and for placing a device on a Philippine Airlines plane in December 1994. The device exploded while the plane was in midair, killing one passenger.

Yousef was convicted in November 1997 on conspiracy and bombing-related charges stemming from the 1993 World Trade Center bombing. This attack, as well as a separate and unrelated 1993 plot to bomb a number of targets in New York City, demonstrated that foreign terrorists have the capability and intention to target the United States.

In 1997, there was one incident worldwide involving the detonation of a bomb aboard an aircraft. The incident occurred in September in Brazil on a domestic airliner during an internal flight. A passenger who apparently was suicidal brought the bomb on the plane. He reportedly was injured in the midair explosion, but another passenger fell through a hole in the fuselage created by the blast and was killed.

There were no hijackings recorded either in the United States or aboard U.S.-registered aircraft in 1997. The last hijacking in the United States, and the most recent incident involving a U.S. air carrier, occurred in 1991. Only one hijacking incident has occurred aboard a U.S.-bound, foreign-registered aircraft in the past 5 years. In December 1993, an Air China flight from Beijing, China, to New York's John F. Kennedy International Airport was diverted to Shanghai after a passenger claimed to have a bomb and demanded to be taken to Taiwan.

During the past 5 years, 87 hijackings have been recorded worldwide. The majority of these incidents took place on domestic (internal) routes; only 25 aircraft were on international flights. Ten hijackings were recorded in 1997, including eight on domestic flights.

The overall number of incidents can serve as a rough index of the level of criminal activity involving commercial aircraft. Because of the differences in situations specific to individual countries and varying motivations among perpetrators, any generalizations must be very carefully drawn.

APPENDIX I

FAA Training Distribution

Course Title	FAA	Non-FAA	Int'l
CAS Instructor Development Workshop (70000)	55		
CAS On-the-Job Instructor Training (70001)	12		
FAA Investigations (70020)	46		
FAA Facilities Inspections (70023)	18		
International Airport Assessments and Inspections (70026)	44		
CAS Special Agent (CORE) Training (70028)	192		
CAS Countermeasures Technology-CORE (70029)	117		
Security Countermeasures/Technology Seminar for Current Sup/Mgr/CASI (70030)	141		
Airport and Air Carrier Compliance and Enforcement (70034)	41		
Air Transportation of Dangerous Goods-Basic (70401)	65		
Cargo Security-Basic (70402)	50		
DG-Cargo Coordinators Seminar-DC (70403)	23		
DG Attorney Course-Basic Overview (70404)	20		
Technical Briefing for DG Outreach (70470)	11		
Canine Coordinators Seminar-CMD (70500)	39		
DG Refresher-IVT (75200)	91		
Civil Aviation Security-International (70013)			19
CAS Seminar for International (Tuition) (72100)			27
Communications Security (COMSEC) Account Management/STU III (70300)	9		
Civil Aviation Security Seminar (70012) [1]		131	
DOS ATAP Airport Security Management Course–Oklahoma City [2]			93
DOS ATAP Airport Security Management Seminar–Saudi Arabia			48
Total Students	974	131	187

[1] Five classes were conducted at the following locations: Dulles/Washington, DC; Palm Beach, Florida; Grand Rapids, Michigan; Columbus, Ohio; San Francisco, California.

[2] Four classes were conducted for participants from the following countries: El Salvador; Senegal; Malaysia; Honduras.

APPENDIX II

Civil Aviation Security Liaison Officers Locations and Areas Covered

Location	Area Covered
Paris	France, Morocco, Algeria, Tunisia, Senegal
Vienna	Austria, Bulgaria, Croatia, Hungary, Moldova, Romania, Slovenia, Bosnia-Herzegovina, Serbia, Montenegro
Rome	Italy, Israel, Turkey, Lebanon, Bahrain, Saudi Arabia, Jordan, Kuwait
Copenhagen	Denmark, Norway, Sweden, Finland
Athens	Greece, Former Yugoslav Republic of Macedonia, Albania, Cyprus, Egypt
Frankfurt	Germany, South and East Africa
London	United Kingdom, Ireland, Iceland
Madrid	Spain, Portugal, Cape Verde, Ghana
Brussels	Switzerland, Netherlands, Belgium, Luxembourg
Brussels	Poland, Commonwealth of Independent States, Baltic States, Ukraine, Russian Federation
Sydney	Australia, New Zealand, Pacific Islands, Micronesia
Bangkok	Thailand, Hong Kong, Vietnam, Taiwan, China, Laos, Cambodia
Singapore	Singapore, Malaysia, Indonesia, Papua New Guinea, Brunei, India, Pakistan
Tokyo	Japan, Korea
Buenos Aires	Argentina, Brazil, Uruguay, Bolivia, Chile, Paraguay
Manila	Philippines
Miami (3)	1) Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua; 2) Colombia, Ecuador, French Guiana, Guyana, Panama, Peru, Suriname, Venezuela; 3) Caribbean Islands
Dallas-Ft. Worth	Mexico

b. Office of the Inspector General Audit Report—Security for Passenger Terminals and Vessels, U.S. Coast Guard

Memorandum from the Office of the Inspector General for Maritime and Departmental Programs (MA-1988-204), to the Chief of Staff, U.S. Coast Guard, September 11, 1998

* * * * * * *

This report presents the results of our audit of U.S. Coast Guard oversight of security for passenger terminals and vessels. The objective of our audit was to determine whether the Coast Guard ensures operators of passenger terminals and passenger vessels have security plans intended to safeguard passengers and property.

Security plans are intended to prevent or deter unauthorized access and the introduction of prohibited weapons, incendiaries, and explosives into/onto passenger terminals and vessels. The plans must provide the means to meet requirements for low, medium, and high security threat levels. At low threat levels, an unlawful act against a terminal or vessel is possible but not likely. This is the level for which operators must maintain security indefinitely, i.e., these are normal, everyday security measures. Comparatively, during high threat levels, operators must increase security measures because an unlawful act against a terminal or vessel is considered probable or imminent, and intelligence indicates terrorists have chosen specific targets. At the time of our audit, the Department of Transportation's Office of Intelligence and Security considers the overall threat of maritime terrorism in the United States as low.

RESULTS-IN-BRIEF

The Coast Guard has been effective in ensuring that operators of passenger terminals and vessels have security plans intended to safeguard passengers and property. The Coast Guard identified 66 passenger terminal facilities and 133 passenger vessels, all cruise ships, requiring security plans. We found the Coast Guard had security plans for each of the cruise ships and all but one of the terminal facilities. The Coast Guard was working with the Government of Samoa to obtain a security plan for the remaining terminal facility.

From January 1997-August 1998, the Coast Guard issued 11 Domestic Threat Advisories based on information from the Department of Transportation's Office of Intelligence and Security regarding potential terrorist threats. None of the Threat Advisories resulted in an increased threat level for passenger facilities and vessels.

The Coast Guard also made cursory assessments of compliance with security plans at passenger terminals and onboard passenger vessels while performing other required inspections. We confirmed

that at the time of our visit, security practices for four cruise ships were consistent with security plans.

We also confirmed a previous Coast Guard determination that security practices at the Port of Miami were not consistent with security plans. As a result, the Captain of the Port for the Marine Safety Office directed all operators of passenger terminals within its jurisdiction to update their security surveys and provide any proposed changes to their terminal security plans for review.

BACKGROUND

In 1985, terrorists killed a United States citizen during the seizure of the cruise ship Achille Lauro. The following year, Congress enacted the Omnibus Diplomatic Security and Antiterrorism Act. Title IX, which constitutes the International Maritime and Port Security Act, provides the Coast Guard with the authority to prevent or respond to acts of terrorism on navigable waters, at ports, and on vessels subject to U.S. jurisdiction. Also, in 1986 the United Nation's International Maritime Organization published Circular 443 "Measures to Prevent Unlawful Acts Against Passengers and Crews on Board Ships" to provide member governments with guidance for reviewing and strengthening port and onboard security.

In subsequent years, the Coast Guard encouraged voluntary compliance with International Maritime Organization Circular 443. However, the Coast Guard found that voluntary compliance did not produce the industry-wide level of security necessary to ensure that acts of terrorism are deterred, or responded to, in the best possible manner. Consequently, in 1996, the Coast Guard published Title 33 Code of Federal Regulations Part 120, Security of Passenger Vessels, and Part 128, Security of Passenger Terminals, as an interim rule. These regulations require operators of passenger vessels and passenger terminals to submit security plans, implementing the measures included in International Maritime Organization Circular 443, to the Coast Guard by October 16, 1996, or at least 60 days before embarking or transferring passengers, whichever is later. The final rule will be effective on October 1, 1998 with little change from the interim rule.

As of January 1998, the Coast Guard had identified 66 passenger terminal facilities and 133 passenger vessels, all cruise ships, requiring security plans. Cruise ships can accommodate up to 3,000 passengers. In 1997, the North American cruise ship market served 5 million passengers, according to statistics kept by the Cruise Lines International Association. By the year 2000, this market is expected to serve 7 million passengers annually.

SCOPE AND METHODOLOGY

We conducted our audit during January through June 1998 in the Coast Guard Marine Safety and Environmental Protection Directorate, Office of Compliance in Washington, D.C.; the National Maritime Center in Arlington, Virginia; and marine safety offices in Long Beach, California and Miami, Florida. Also, we conducted our audit in the Department of Transportation's Office of Intelligence and Security; in passenger terminal facilities for the World Cruise Center in Los Angeles, California and the Port of Miami in

Miami, Florida; onboard the cruise ships Jubilee, Viking Serenade, Leeward, and Grandeur of the Seas; and in offices for the Federal Bureau of Investigations in Long Beach, California. Further, we discussed terminal and cruise ship security with the Vice President of International Operations for the International Council of Cruise Lines. The audit covered the period October 1996 through June 1998.

We conducted our audit in accordance with *Government Auditing Standards* prescribed by the Comptroller General of the United States. To address our objectives, we reviewed legislation, regulations, and Coast Guard guidance, procedures, and management controls. Also, we reviewed 17 security plans (2 terminal facilities and 15 cruise ships) to determine whether they met regulatory requirements. Further, we observed security practices for a low threat level at both of the terminal facilities and onboard 4 of the 15 cruise ships to determine whether operators followed security plans. We did not observe security practices that would be required at medium or high threat levels.

Exhibit A identifies the facilities and vessels included in our audit. We reviewed personnel rosters, training records, and security reports at terminal facilities and onboard cruise ships. We also reviewed security surveys, vulnerability assessments, and other records kept by Coast Guard marine safety offices in Long Beach and Miami.

RESULTS

The Coast Guard ensured that operators of passenger terminals and passenger vessels had security plans intended to safeguard passengers and property against unlawful acts. The Coast Guard also made cursory assessments of compliance with security plans at passenger terminals and onboard passenger vessels while performing other required inspections. We confirmed that at the time of our visit, security practices for the four cruise ships visited were consistent with security plans. Further, we confirmed Coast Guard findings that security practices need strengthening at the Port of Miami.

OPERATORS HAD SECURITY PLANS EXAMINED BY THE COAST GUARD

Coast Guard Captains of the Port and the Coast Guard National Maritime Center examine security plans for passenger terminals and vessels, respectively, to determine whether they articulate the security program required by Federal regulations. The Coast Guard does not approve security plans. However, the Coast Guard requires Captains of the Port and the National Maritime Center to return plans not meeting Federal requirements to terminal and vessel operators, with an explanation of why the plans do not meet the requirements. Further, Captains of the Port may terminate operations if a passenger terminal or passenger vessel does not have a plan, or a letter from the Coast Guard stating normal operations may continue until the Coast Guard examines the plan.

Title 33 Code of Federal Regulations, Parts 120 and 128, state that security plans must conform to International Maritime Organization Circular 443. Coast, Guard Navigation and Inspection Cir-

cular 3–96 includes the Security Plan Evaluation Guide, which the Coast Guard developed using the guidelines contained in International Maritime Organization Circular 443. This circular provides the Coast Guard and industry with guidance regarding the examination of plans and security measures that passenger terminals and vessels should take at low, medium, and high threat levels.

In January 1998, we contacted each of the Coast Guard's marine safety offices to identify passenger terminal facilities requiring security plans. We identified 66 terminal facilities. Captains of the Port had examined security plans for 65 of these facilities, finding the plans met the requirements of 33 Code of Federal Regulations 128. As of July 1998, the marine safety office in Honolulu, Hawaii was working with the Government of Samoa to develop a security plan for the remaining facility, which processes about 10,000 passengers annually.

Also in January 1998, the National Maritime Center had identified 133 passenger vessels, all cruise ships, requiring security plans. The National Maritime Center found each of these plans met the requirements of 33 Code of Federal Regulations 120. The Coast Guard relies on Captains of the Port to verify, during annual safety examinations, that passenger vessels have security plans. According to the Chief for the Center's Passenger Vessel Security Division, Captains of the Port have not identified any passenger vessels operating without a security plan examined by the Coast Guard.

The Coast Guard's Security Plan Evaluation Guide identifies the areas - 12 for terminals and 11 for vessels - that operators should cover in their security plans. To confirm whether operators covered these areas, we reviewed security plans for the World Cruise Center in Los Angeles, the Port of Miami, and 15 cruise ships. We found that, with few exceptions, security plans conformed to the Security Plan Evaluation Guide. Specifically, the World Cruise Center did not cover the use of barriers for security, neither the World Cruise Center nor the Port of Miami covered lighting for security during darkness, and one cruise ship did not cover the use of alarms.

However, these omissions did not adversely affect security for the terminals and the cruise ship. During our on-site visits, we observed that the World Cruise Center used barriers to keep people away from restricted areas; the World Cruise Center and the Port of Miami provided security lighting between sunset and sunrise; and the cruise ship used closed circuit television to monitor restricted areas as an alternative to alarms. Exhibit B summarizes the results of our review.

THREAT LEVELS ARE CONSIDERED LOW

In addition to examining security activities for passenger terminals and vessels, Coast Guard Captains of the Port conduct port vulnerability assessments annually for every passenger vessel terminal within their areas of responsibility. For 1997, the vulnerabilities for the World Cruise Center and the Port of Miami were assessed at the midpoint of a five point scale (Very Low-Very High). The vulnerability assessments look at factors such as the location and layout of the terminal, dependence on essential services,

access points, security staff, and existing security measures. The Department of Transportation's Office of Intelligence and Security includes the results of the assessments in its annual report to Congress on the threat from acts of terrorism to the maritime community.

Further, the Department of Transportation Office of Intelligence and Security issues Information Circulars to inform the various transportation modes about potential terrorist threats. Based on the Information Circulars, the Coast Guard issued 11 Domestic Threat Advisories during January 1997- August 1998. None of the Threat Advisories resulted in an increased threat level.

The Navigation and Inspection Circular 3–96, notes that at high threat levels Captains of the Port and other appropriate Federal agencies will be actively involved in assuring the security of affected vessels and terminals. The Federal Bureau of Investigation is the designated lead agency for response to domestic maritime terrorist incidents.

COAST GUARD MADE CURSORY ASSESSMENTS OF COMPLIANCE WITH SECURITY PLANS

Navigation and Inspection Circular 3–96 requires Captains of the Port to annually "examine" security activities for passenger terminals and vessels. The scope of these examinations is intended to be limited. These examinations are in addition to other routine inspections required to be made by the Coast Guard. According to a 1994 Coast Guard assessment, the "examination" for a passenger terminal should take 25 minutes: 5 minutes to verify a security plan, 5 minutes to review reports of unlawful acts, and 15 minutes to observe security practices. The "examination" for a vessel should take 10 minutes: 5 minutes to verify a security plan and 5 minutes to review reports of unlawful acts.

World Cruise Center: The Coast Guard's marine safety office in Long Beach was examining security activities for passenger terminal facilities at the World Cruise Center. To illustrate, in August 1997, inspectors examined the process used by the World Cruise Center to check-in passengers. At the same time, the inspectors examined measures for identifying people using the World Cruise Center, such as baggage handlers and security forces. Further, in January 1998, inspectors examined terminal lighting and night time security, and security when passengers, visitors, and crewmembers transferred to/from three different ships. These examinations did not disclose significant security deficiencies.

During our visit, we confirmed that security practices, employed during our visit, were consistent with security plans at the World Cruise Center. We observed security forces testing screening equipment, placing vehicle and pedestrian traffic flow devices, and testing gates and doors. During the disembarking and boarding of passengers, security guards kept vehicles from accessing restricted terminal facilities such as piers, warehouse areas, and the ship gangways. Also, security guards kept us from entering restricted areas. We observed security guards processing all passengers through a metal detector, and X-raying all hand-carried property as well as randomly selected cabin baggage. Additionally, security guards observed ship stores and provisions being loaded aboard ships.

Port of Miami: The Coast Guard's marine safety office in Miami was examining security activities for passenger terminal facilities at the Port of Miami. To illustrate, in January 1998, inspectors examined terminal facilities and tested shoreside and shipboard security. The examination disclosed security deficiencies such as unlocked doors to restricted areas, inadequate screening of persons seeking access to terminal facilities, and inadequate or damaged fencing and gates. Further, the inspectors gained unauthorized access to a cruise ship, including the ship's bridge. As a result of the Coast Guard's examination, the Port of Miami agreed to take various actions to correct security deficiencies, such as equipping doors with locks to prevent unauthorized opening, reviewing procedures for screening persons, installing higher fencing, and repairing gates.

During our visit in June 1998, we found security practices at the Port of Miami were still not consistent with security plans. We gained entry, unchallenged, through several restricted areas to ship gangways. However, security guards kept us from boarding the ships. Also, terminal personnel such as stevedores, porters, and truck drivers frequently did not display required identification cards. Further, metal detection equipment, operated in terminal facilities for one of the two ships visited, did not work properly for hand-carried property. To illustrate, the equipment did not identify a heavy metal belt buckle worn by a Coast Guard inspector accompanying us during our visit. We also found security personnel did not randomly screen cabin baggage—one cruise line informed us they first began screening cabin baggage the day of our visit and the other has never screened cabin baggage.

As a result of our findings of continuing security deficiencies at the Port of Miami, the Captain of the Port for the Coast Guard Marine Safety Office in Miami directed all operators of passenger terminals within its jurisdiction to update their security surveys. Further, operators were directed to provide the Captain of the Port with proposed changes to their terminal security plans for review.

Passenger Vessels: Coast Guard inspection activity reports show marine safety offices made safety inspections for the cruise ships Jubilee, Viking Serenade, Leeward, and Grandeur of the Seas within the past year. These inspections did not identify any security deficiencies. We found security practices for the four cruise ships, on the day we visited, were consistent with security plans. We observed staff screening passengers through the use of non-picture identification cards that were cross-matched to passenger rosters; visitors through a sign in/out log; and ship's crew through picture identification cards. Also, staff kept daily records of security routines and incidents. While each of the four ships experienced incidents such as quarrels between passengers and/or ship's crew, only one ship experienced an unlawful act that required reporting to the Coast Guard. The operator properly reported this act.

GOVERNMENT PERFORMANCE AND RESULTS ACT

The Government Performance and Results Act requires each agency to develop a strategic plan that includes objective, quantifiable, and measurable performance goals for accomplishing major program activities. The Coast Guard's 1998 Performance Plan for

the Marine Safety and Environmental Protection Program includes a goal to "Reduce risk from terrorism to U.S. passengers at foreign and domestic ports and designated waterfront facilities." The Coast Guard is developing performance measures, strategies, and activities to achieve this goal.

RECOMMENDATION

We recommend that the Chief of Staff direct the Captain of the Port for the Marine Safety Office in Miami to conduct a followup inspection to ensure that operators of passenger terminals at the Port of Miami take necessary actions to correct security practices.

ACTION REQUIRED

Please provide a written response to our recommendation within 30 days. We appreciate the courtesies and cooperation of Coast Guard representatives. Please call me at (202) 493–0331 or Jerome Persh at (202) 366–1504, if you have any questions concerning this report.

EXHIBIT A

Passenger Terminal Facilities and Vessels Included in Audit

	Plans Reviewed	Security Observed
Terminals		
Port of Los Angeles (World Cruise Center)	x	x
Port of Miami	x	x
Operators/Vessels		
Carnival Cruise Lines		
MS Celebration	x	
MS Jubilee	x	x
Norwegian Cruise Line		
MS Norwegian Majesty	x	
MS Leeward	x	x
MS Windward	x	
Royal Caribbean International		
MS Nordic Empress	x	
MS Grandeur of the Seas	x	x
MS Viking Serenade	x	x
Costa Cruise Lines		
MV Costa Victoria	x	
Premier Cruises		
SS Seabreeze	x	
Holland American Line		
MS Noordam	x	
MS Ryndam	x	
Celebrity Cruises Inc.		
MS Century	x	
Princess Cruises		
Dawn Princess	x	
International Shipping Partners		
MS Regal Empress	x	

EXHIBIT B

Summary: Review of Security Plans

Development of Security Plans	Vessels		Terminals	
	YES	NO	YES	NO
1. Does the plan identify the Security Officer?	15	0	2	0
2. Does the security plan contain standard operating procedures for responding to security violations?	15	0	2	0
3. Does the plan specify that alarms, when used, are to activate an audible or visual alarm in a permanently manned station?	14	1	2	0
4. Does the plan address lighting for security during darkness?	15	0	0	2
5. Does the plan specify the kind of communications to be used for a breach of security, an unlawful act, or other emergency?	15	0	2	0
6. Does the plan require that screening, when conducted, be done manually, electronically, or by an equivalent means acceptable to the Coast Guard?	15	0	2	0
7. Does the plan require that each piece of baggage be marked, labeled or tagged, or otherwise identified as belonging to a particular passenger?	15	0	2	0
8. Does the plan describe the system used to identify and control personnel?	15	0	2	0
9. Does the plan outline designated restricted areas?	15	0	2	0
10. Does the plan outline coordination plans and procedures between vessels and terminal facilities?	15	0	2	0
11. Does the plan include required actions for low, medium, and high threat levels?	15	0	2	0
12. Does the plan include a requirement that barriers and their boundaries, when used between restricted and unrestricted areas in the terminal area, be clearly defined by walls, fences, environmental design, or other security barriers that are either permanent or temporary?	N/A	N/A	1	1

NA—Not applicable.

c. White House Commission on Aviation Safety and Security—The DOT Status Report

Partial text of the DOT Status Report implementing the recommendations of the White House Commission on Aviation Safety and Security[1]

EXECUTIVE SUMMARY

One year ago, the White House Commission on Aviation Safety issued its final report. The Department of Transportation (DOT), the Departments of Defense, Justice, State, and Treasury, the National Transportation Safety Board, the National Aeronautics and Space Administration and numerous other Federal agencies have made significant progress implementing the Commission's recommendations. Together, with our partners in the aviation community, the federal government has worked to change the way we do business.

The federal government has established the Commission's proposed safety goal as our primary safety goal. We are committed to reduce the aviation fatal accident rate by a factor of five within 10 years (Recommendation 1.1). Both the DOT and the National Aeronautics and Space Administration (NASA) have adopted the goal in their new strategic plans, and incorporated means of measuring the progression of this goal in their performance agreements. The Federal Aviation Administration (FAA) has set out a strategic goal of reducing the aviation fatal accident rate 80 percent by 2007. NASA has also set a longer-range goal of reducing the fatal accident rate by a factor of 10 within 20 years. FAA and NASA are tailoring their research and program plans to achieve these goals.

Aviation security has been established as a national security priority (Recommendation 3.1). The President has publicly recognized aviation as a major element of our strategy against terrorism, and the White House publication *A National Security Strategy for a New Century* includes aviation security as a critical element. The DOT Strategic Plan specifically recognizes aviation security as a key component in advancing the nation's vital security interests. The National Security Council has established a subgroup, headed by the DOT and including all agencies involved in aviation security, to address the White House Commission security recommendations specifically.

Over the past year, the following White House Commission recommendations have been completed.

- The Department has instituted into its rulemaking practices a policy to ensure that costs alone are not dispositive in the rulemaking process (Recommendation 1.5). The new policy recognizes the importance of both tangible and intangible benefits

[1] The full text of this report is available on the DoT Web site at http://www.dot.gov.affairs/whcoasas.htm.

of rules, the need for risk analysis and examination of potential mitigation measures, and the need to identify and act on high-risk potential accident causes before accidents occur.

- The FAA is continuing to explore innovative means to accelerate the installation of advanced avionics in general aviation aircraft (Recommendation 2.3) as part of its Advanced General Aviation Transport Experiments (AGATE). The goal is to improve general aviation safety and improve access to the airspace system. FAA is revising two Advisory Circulars (AC) on certification, and a new RTCA task force is reviewing avionics certification processes. Flight 2000, FAA's program to demonstrate and validate new National Airspace System (NAS) capabilities, also will validate avionics, including low-cost weather data link systems for general aviation aircraft.
- In September 1997, the National Civil Aviation Review Commission (NCARC) released its Recommendations on ways for the users of the National Airspace System (NAS) to fund its development and operation (Recommendation 2.5). A new FAA reauthorization proposal will address those recommendations.
- The FAA identified and justified the frequency spectrum necessary for the transition to a modernized air traffic control system (Recommendation 2.6) and released its study in July 1997. The results will be incorporated into the next Federal Radionavigation Plan. FAA is continuing to address the sufficiency of the radio frequency spectrum to support the communication needs of the NAS.
- The Department of Transportation issued on February 12, 1997, a final rule to improve passenger manifests (Recommendation 3.26) by requiring more information on passenger manifests for flights to or from the United States.
- In June 1997 FAA submitted a proposed resolution, through the U.S. Representative, that the International Civil Aviation Organization (ICAO) begin a program to verify and improve compliance with international security standards (Recommendation 3.8). ICAO has not yet adopted the resolution, which the United States continues to support.
- DOT strengthened its working relationship with the Departments of Defense, Energy, and other Federal agencies and local authorities to assess the possible use of chemical and biological weapons as tools of terrorism (Recommendation 3.9). Interagency activities are ongoing.
- The Department of Defense (DOD) has established an interagency task force to assess the potential use of surface-to-air missiles against commercial aircraft (Recommendation 3.17.) DOD convened the task force and held its first meeting on May 12, 1997.
- FAA has given properly cleared airline and airport security personnel access to needed classified information (Recommendation 3.23). Industry officials, with appropriate security clearances, are now routinely provided classified information regarding threats.
- The FBI significantly increased the number of agents assigned to counter-terrorism investigations to improve intelligence and crisis response (Recommendation 3.27). Congress provided

funding and FBI deployed 644 Special Agents, 620 support positions, and additional funding for investigations, intelligence gathering, forensic analysis, and crisis management.

- The FAA has been a full partner with the Department of State in providing anti-terrorism assistance through airport security training to countries where there are airports served by airlines flying to the United States (Recommendation 3.28). The Department of State and FAA provide airport security training through the Anti-Terrorism Assistance Training Program (ATAP.)
- The National Transportation Safety Board (NTSB) finalized a coordinated federal response plan to aviation disasters (Recommendation 4.1). The plan has been implemented in four aviation disasters, including the Korean Air 801 disaster in August 1997 at Guam.
- The Department of Transportation and the NTSB have implemented key provisions of the Aviation Disaster Family Assistance Act of 1996 (Recommendation 4.3.) The Secretary's Task Force on the Assistance to Families of Aviation Disasters was appointed in March 1997. It issued its report, containing 61 recommendations, to Congress and the Vice President in October 1997. The government and industry are implementing many of the Task Force's recommendations.

Beyond the fully completed recommendations, DOT, FAA, and other agencies have made substantial progress toward implementing virtually all the remaining recommendations. Highlights include:

- The new passenger screening system, Computer Assisted Passenger Screening (CAPS), was prototyped, tested with Northwest Airlines in 1997, and is being phased in by U.S. airlines in 1998. FAA tested passenger bag matching in 1997 and, on January 1, 1998, augmented the bag-matching program in conjunction with both manual screening and CAPS. After a thorough review, the Department of Justice concluded that the screening system did not violate the civil rights of any individuals.
- FAA hired 375 new safety inspectors and created a group to provide analytical support to field offices and target inspector oversight where it is most needed.
- Some 79 certified explosives detection systems and advanced technologies for screening of checked bags were purchased in 1997. Deployment will be completed in 1998. In addition, over 50 trace explosives detection devices were deployed in 1997, bringing the total in place from 78 to 128. About 365 more trace detection devices will be purchased and installed by the end of 1998.
- NASA has reprogrammed $500 million to invest in safety research over the next five years. They have identified a lead research center for safety research and established a program management staff throughout NASA Centers.
- The FAA and NASA are working as partners to develop a research plan to achieve the national aviation safety goal of an 80 percent reduction in aviation fatal accidents in 10 years.

Both agencies will work with industry to create and install new safety technology as quickly as possible. This work will assist FAA in implementing many of the safety recommendations.

- Notices of Proposed Rulemakings (NPRM) have been drafted or issued on *Enhanced Ground Proximity Warning Systems* in aircraft; improved standards for certification of foreign aircraft repair stations worldwide; amended criteria for certification of explosives detection systems to include detonators; computer assisted passenger screening; and expanded applicability of rules concerning criminal background checks and FBI fingerprint checks to all screeners and their supervisors. An Advanced NPRM was published on the certification of security screening companies.
- The FAA and NASA have developed a human factors plan to address the implementation of items included in three key reports: *The National Human Factors Plan*; the *1997 Aviation Safety Plan*; and a report on flight deck human factors. In addition, FAA coordinated an FAA/NASA/DOD Aviation Safety Program, strengthened collaborative safety research efforts, identified new safety research requirements, and are executing a research plan for a flight deck automation study.
- The FAA and the National Academy of Sciences signed an agreement to create a panel for the Assessment of Technologies for Aviation Security.
- Cooperative research agreements and partnerships have been established to develop new security technology.
- The DOT is continuing its efforts to ensure the accuracy, availability, and reliability of the Global Positioning System (GPS) as part of a worldwide Global Navigation Satellite System (GNSS). This includes measures to provide secure uninterrupted civilian access to the GPS carrier; work with the Department of Defense on a plan for a second GPS frequency; and work with international organizations on how to detect and protect GNSS from potential interference. The DOT and the Departments of State and Commerce are encouraging worldwide use of GPS in international forums. FAA has agreements with 14 nations that ensure the use of U.S. GPS standards around the world.
- The Administration is supporting legislation introduced in Congress to ensure equitable treatment for families of passengers involved in international aviation disasters. It is also is supporting legislation to amend the Death on the High Seas Act which would enable the family members of those killed in international aviation disasters to obtain fair compensation.

This report summarizes accomplishments toward achieving the 57 recommendations in the White House Commission report and discusses some of the issues that will affect implementation in the future. The federal government and its partners in the aviation community are fully committed to continuing implementation in the years ahead.

WHITE HOUSE COMMISSION RECOMMENDATIONS:

* * * * * * *

3. IMPROVING SECURITY FOR TRAVELERS

3.1—The federal government should consider aviation security as a national security issue, and provide substantial funding for capital improvements.

- The President recognized aviation security as a major element of our strategy against terrorism, and then sought funding for the deployment of advanced security equipment. The Congress did its part by passing two important laws authorizing and funding the initial recommendations: the Omnibus Consolidated Appropriations Act signed by the President on September 30, and the Federal Aviation Reauthorization Act signed October 9, 1996.
- By the end of October 1996, FAA had formed a team of acquisition and security experts from government, airport authorities and air carriers to plan, purchase and install explosives detection devices and other advanced security equipment at many of the busiest U.S. airports. Continued federal funding at a minimum level of $100 million a year for several years is necessary to efficiently continue capital improvements that are more fully described under recommendations 3.15 and 3.20. To continue this effort the FAA is requesting $100 million in funding in FY 1999.

3.2—The FAA should establish federally mandated standards for security enhancements.

- Standards for the certification and use of equipment, and the training and performance of security personnel are an integral part of improvements required by many other recommendations. The Aviation Security Improvement Act of 1990 (P.L. 101–604) states that prior to a requirement for deployment of explosives detection systems (EDS), the FAA must certify that EDS performance meets standards based upon the amount and types of explosives likely to be used to cause catastrophic damage to commercial aircraft, derived from test results using independently developed test protocols. The Act further requires that certified equipment must be able to detect such amounts under realistic air carrier operating conditions. All of this has been done.
- In November 1992, FAA issued the draft EDS standard and the National Academy of Sciences completed final certification test protocols in May 1993. FAA developed coordinated standards with the scientific and intelligence communities, the aviation industry, and properly cleared manufacturers and vendors, then published final unclassified portions on September 10, 1993. In December 1994, the InVision CTX–5000 was certified as the first, and so far the only, explosives detection system. In addition, a proposal was published in August 1996 to amend existing standards for FAA certification of explosives detection systems to detect detonators as well as bulk explosives. The proposal's comment period closed on January 6, 1997, comments have been analyzed, and a draft final standard is being prepared.

- Operational procedures for trace detection equipment have been developed and are being applied in the field as part of the deployment of the equipment under recommendations 3.1 and 3.15. Trace detection performance criteria standards for the amounts and types of explosives to be detected are under development.
- Training is more fully covered under recommendations 3.10, 3.20 and 3.30.

3.3—The Postal Service should advise customers that all packages weighing over 16 ounces will be subject to examination for explosives and other threat objects in order to move by air.

- The United States Postal Service (USPS) has reviewed recommendations 3.3, 3.4, and 3.5 and is very concerned about the potential impacts of the recommendations. If implemented, they would seriously impede USPS ability to provide timely, reliable, low cost mail service to both domestic and international customers. Also, full implementation will impede USPS capability to compete with other companies who are not subject to the same stringent screening requirements as proposed for the USPS. The slow throughput rates of currently certified explosives detection systems make their application impractical for screening large volumes of mail. Regarding the legal issues, legislation would be required to implement recommendation 3.3.
- Aside from the need for legislative authority to intrude into mail that is sealed against inspection, the USPS remains concerned as to how it would implement the screening of parcels weighing 16 ounces or more. The FAA-certified explosives detection system was designed for screening checked bags with an appropriate system throughput for that purpose. It was not designed or certified to process over 1 million pounds of parcels per day weighing 16 ounces or more that fly in passenger aircraft. The USPS fears that screening mail as provided for in the recommendation may not be feasible without extensive delay of the mail. To minimize delays and ensure effective screening, the USPS would have to acquire a large number of these systems whose total acquisition and operational cost is estimated to exceed one billion dollars, immediately translating into higher postal rates for customers.
- The USPS's Aviation Mail Security Committee continues to examine the current and emerging technologies to determine their potential application in postal operations. Further, the Committee will soon visit European Postal Administrations, who are screening mail, to learn if any of the technologies and procedures used by them can be adapted to USPS operations. Thus far, a system with characteristics that would be required for deployment in the U.S. postal operating environment has not been found.
- The USPS does not believe the public would, in the interest of enhancing aviation security, understand and accept the need to relax the sanctity and privacy of the mail and Fourth Amendment protection against warrantless search. The USPS strongly doubts that the public will accept such routine intrusion into

the mail by government agencies to detect items in which they may be interested. The USPS believes this kind of activity would be strongly contested in any public hearings held by Congress.

3.4—Current law should be amended to clarify the U.S. Customs Service's authority to search outbound international mail.

- U.S. Customs has proposed a legislative change to amend Title 19, clarifying outbound search authority. Key legislative staffs on both the House and Senate Banking Committees have been briefed and have expressed support. Close coordination between U.S. Customs Service and U.S. Postal Service personnel will be essential to avoid duplicative efforts.
- The Postal Service continues to take exception to this recommendation, and has held meetings with the General Accounting Office, Office of Management and Budget, and Customs. It contends this recommendation would adversely affect its ability to provide timely, low cost service and would be a waste of money due to duplication of efforts recommended under 3.3. The Postal Service believes giving Customs the authority to inspect outbound international mail is not legal and in any case would not be operationally practical or efficient.

3.5—The FAA should implement a comprehensive plan to address the threat of explosives and other threat objects in cargo and work with industry to develop new initiatives in this area.

- Perhaps more than in any other aspect of security, the need for new partnerships in exploring innovative improvements in cargo security were obvious to the Commission immediately. Advice from the Aviation Security Advisory Committee Baseline Working Group, which needed to form a cargo subgroup to deal with this complicated problem, made that clear.
- To implement this recommendation, FAA proposed amendments to standard security programs for U.S. carriers, couriers, freight forwarders and cargo consolidators, as well as the model security program for foreign air carriers. These proposals were issued for comment on May 14, 1997. Changes to the voluntary, "domestic security integrated program" for all cargo carriers were also proposed. Since that time, FAA listening sessions have been held, and major substantive recommendations to clarify further the intent of cargo acceptance and handling procedures have been made by several groups.
- The Cargo Baseline Working Group recommended that the proposed amendments be rewritten. Comments made at listening sessions on June 3 and July 28, 1997, in addition to written comments received from the industry prompted reexamination of the proposed amendments, and a completely rewritten version. Several major changes are being proposed, particularly regarding "known" versus "unknown" shipper criteria and specific cargo screening procedures. The proposed amendments will be published for comment this year.

3.6—The FAA should establish a security system that will provide a high level of protection for all aviation information systems.

- Information security is important not only to comply with this recommendation but also with the recommendations of the President's Commission on Critical Infrastructure Protection (PCCIP). As the National Airspace System evolves from a custom-made, highly specialized array of equipment and services, to a more open system comprised of commercial off-the-shelf products and services the planned information security system will more effectively protect air traffic control information and systems from the increasing risk of "information-based attacks," an area of special concern to the PCCIP. GAO is currently circulating a report on FAA's air traffic control computer security. The Department is preparing comments, and will use the final report to help improve information security. GAO is circulating a report on FAA's air traffic control computer security. The Department is preparing comments, and will use the final report to help improve physical and information security.
- FAA is planning on FY98 funding of $3.2 million and FY99 funding of $27.1 million for its information security program. FAA's information security initiative will combine efficient system development and operations with sound security risk management policy and procedures throughout the life cycle of new and existing automated air traffic systems. It will work hand-in-hand with improvements in the physical security of critical FAA facilities, such as air route traffic control centers and airport control towers.

3.7—The FAA should work with airlines and airport consortia to ensure that all passengers are positively identified and subjected to security procedures before they board aircraft.

- FAA continues to work with airlines and airport operators to ensure that all passengers are effectively screened prior to boarding. The initial proposed amendment to the air carrier standard security program addressing Commission concerns was issued for comment to regulated parties on March 28, 1997. The proposal included: revised procedures for applying a computer assisted or manual passenger screening system for all flights originating in the United States; clearance procedures for selectee bags, articles and suspicious items, including a provision for the use of explosives detection systems and devices; air carrier self-auditing of screening checkpoint operations; and, checked baggage acceptance operations.
- Comments were received, analyzed and a revised proposal was issued on August 5, 1997. Airlines requested and were granted an extension of the comment period until October 10, 1997. Running in parallel, a related proposal to amend the air carrier standard security program was issued for comment in December 1997 with a comment period closing January 31, 1998. In general, the proposal modifies the August 1997 clearance procedures for selectee bags; and incorporates an additional random selection percentage for those air carriers applying the "manual" passenger screening. A final amendment to the air carrier standard security program will not be issued until its

contents are carefully reviewed and fully coordinated with initiatives detailed here and under recommendations 3.15, 3.19 and 3.24.

3.8—Submit a proposed resolution, through the U.S. Representative, that the International Civil Aviation Organization begin a program to verify and improve compliance with international security standards.

- The U.S. mission to ICAO made a proposal to ICAO regarding enhancements to the ICAO Security mechanism. The ICAO Council considered the issue at its June 4, 1997 meeting and decided to table it and discuss it at the last session of the Council in the fall of 1997. Currently, the resolution has not been adopted. The U.S. mission will continue to pursue the proposal.

3.9—Assess the possible use of chemical and biological weapons as tools of terrorism.

- The FAA works closely with the Departments of Defense, Energy, and other federal agencies to ensure awareness of the plans and activities of other organizations assessing the use of chemical and biological agents by terrorist groups. For example, FAA knows that local airport authorities have been involved and many of them have scheduled "first responder training" for their fire and police departments to increase the awareness of problems associated with the use of chemical and biological agents.
- In general, aviation security planning and specific security measures are based, among other things, on assessments from law enforcement and intelligence agencies. Threat assessment and coordinated planning for prevention as well as research and development has been continuous since required by the Aviation Security Improvement Act of 1990.

3.10—The FAA should work with industry to develop a national program to increase the professionalism of the aviation security workforce, including screening personnel.

- The FAA continues to take human factors into account by providing appropriate training, and developing utilization tandards, clear guidance and operational procedures in partnership with the airlines to ensure the effective use of security equipment by trained and properly motivated air carrier personnel. FAA is also taking steps to improve initial and recurrent training curricula for both checkpoint supervisors and screeners.
- The Supervisory Effectiveness Training program provides screening supervisors and managers with the basic skills necessary to properly control the day-to-day operations under their charge. The program would establish standards for training to provide such essential skills as interpersonal relations, conflict resolution, leadership, and performance improvement.
- The FAA and airlines are deploying elements of the Screener Proficiency Evaluation and Reporting System (SPEARS), a major FAA effort to improve training and monitor screener ef-

fectiveness. SPEARS has computer-based training modules, which are effective and efficient methods for training screeners. Training systems for screeners using x-ray machines at security checkpoints have been installed at 17 major airports. They will soon be available for explosives detection systems and trace detection devices.

- The other SPEARS component, Threat Image Projection (TIP), is a system whereby artificial images of improvised explosives devices and other threat objects are presented to the screener during the performance of normal duties as if objects actually were in baggage. The screener's decisions are tabulated and recorded to furnish real-time feedback for effectiveness monitoring and as a training tool. Approximately 300 TIP systems are being deployed to the 19 busiest airports. Deployment should be completed this summer. We expect air carriers who helped FAA develop this equipment will embrace its deployment as full partners and ensure its effective use. See also 3.20.

3.11—Access to airport controlled areas must be secured and the physical security of aircraft must be ensured.

- Revision of the basic code of federal regulations for airport and air carrier security, published in the *Federal Register* on August 1, 1997, will include strengthening access controls and aircraft security. Research has begun on more efficient and effective use of existing perimeter and sensitive area surveillance systems. The FAA is conducting research on radio frequency identification tags that could possibly assist in tracking checked baggage movement in secure areas of the airport.

3.12—Establish consortia at all commercial airports to implement enhancements to aviation safety and security.

- In September 1996, immediately after the Commission's initial recommendations were announced, the FAA established consortia at 41 major U.S. airports—our busiest airports. The FAA, the airline industry and other agencies, including the Federal Bureau of Investigation (FBI) and the Bureau of Alcohol, Tobacco and Firearms (BATF) have used consortia to find and fix problems cooperatively. By mid-December 1996, these consortia completed vulnerability assessments and submitted action plans with recommended procedural changes and specific needs for advanced security technology identified. To increase their effectiveness and numbers as recommended by the Commission, FAA will soon issue an advisory circular containing a revised voluntary disclosure policy that encourages people to come forward, reveal problems and fix them. Voluntary security consortia will be expanded to 200 airports by the end of 1998.
- BATF agents are visiting all major airports to offer assistance in conducting explosives threat assessments and other vulnerability assessments relating to explosives.

3.13—Conduct airport vulnerability assessments and develop action plans.

- The FAA has contracted with several private sector firms, including one that participated in the development of the model used by Sandia National Laboratory, to conduct several vulnerability assessments supported by onsite FAA agents, using various models and methodologies. FAA is using several vulnerability assessment models to determine which is really the best and most appropriate for use at airports.
- Eight contractors have been assigned to assess 14 major airports. The planning stage has been completed, and teams at 6 airports have completed onsite data collection activities. Fourteen out of 28 volunteer candidate airports will be engaged in helping to test and evaluate the models used in these assessments. Final analysis will begin in March 1998, and all 14-airport assessments will be completed by August. A panel of experts will be used to evaluate the results of these assessments, and to develop guidelines for future airport vulnerability assessment in terms of best methodologies and tools to be used. Additional funding planned for FY99 and beyond will be used to continue assessments at other major airports. The final award will go to the contractor(s) determined to provide the most cost effective assessment process.
- The Federal Aviation Reauthorization Act of 1996 includes a requirement for FAA and the Federal Bureau of Investigation to conduct joint threat and vulnerability assessments of airports designated as high risk. In order to fulfill this requirement, FAA has been working closely with the FBI to develop a methodology for these assessments. The model relies on a national-level threat assessment of selected U.S. airports, conducted by the FBI at a Headquarters level, and a local, criminal threat assessment conducted by the appropriate Bureau field office. Concurrently, the FAA will conduct a comprehensive vulnerability assessment and a validation of the result. FAA plans to utilize the information gathered in a relational database to identify and relate key vulnerability issues and assign threat factors for all airports throughout the United States.
- The FBI and FAA conducted a joint assessment at Baltimore-Washington International Airport in December 1997. A validation of the assessment questionnaire was performed and the FBI provided an analysis of the trends in criminal activity at the airport. Washington-Dulles International Airport was assessed in January 1998, and beginning in February, two airports per month will be jointly assessed.

3.14—Require criminal background checks and FBI fingerprint checks for all screeners and all airport and airline employees with access to secure areas.

- Perhaps more than any other single security issue, background checks have been discussed and debated in great detail for nearly 15 years, largely because of the need to proceed cautiously to insure the protection of individual rights to privacy so strongly prized by Americans. Each incremental step toward

greater authority to review an individual's background prior to granting access to restricted areas of airports has been taken only after close examination and careful consideration of all viewpoints. The FAA published a Notice of Proposed Rulemaking on March 19, 1997, to extend background check regulations to include screeners. The comment period closed on May 19, 1997. Analysis of comments received and the drafting of the final rule is being conducted in the context of other initiatives on passenger screening, with publication planned for this year. Full implementation of the Commission recommendation, however, would require additional legislation to further extend application of criminal history record checks.

- The FBI's Criminal Justice Information Services Complex in Clarksburg, W. Va., is processing fingerprint examples submitted by the FAA pursuant to Federal Regulation. The FBI has cut turnaround time in half. Approximately 20,000 fingerprint cards have been or are in process. Full implementation of this recommendation is also dependent upon FBI fingerprint turnaround time and deployment of the automated Electronic Fingerprint Image Print Server (EFIPS). The goal is to deploy technology that will be fully operational by mid–1999 and reduce turnaround time to 2–3 days and eventually only 24 hours.

3.15—Deploy existing technology.

- As required by recommendation 3.1 and in the spirit of partnership for enhancing security endorsed by the Commission, the federal government is funding air carrier security improvements by subsidizing the capital expenses of the air carriers, including some training and installation costs, through the purchase of advanced security equipment. The air carriers' role in this partnership is to use the equipment purchased effectively and pay for its operation and maintenance after one year. The President's FY99 budget contains $100 million for continued federal funding and deployment of all types of advanced security technologies.
- In December 1996, FAA purchased 54 certified explosives detection systems for screening checked baggage, using a portion of $144 million for equipment provided by Congress in the Omnibus Consolidated Appropriations Act of 1997. The joint government and industry integrated product team described under 3.1 began installation of the equipment in Chicago and New York in January 1997 and will continue deploying these devices through FY98 with current funds. Certified explosives detection systems are operational in six cities with deployment to several more cities planned for the spring of 1998.
- The use of trace explosives' detection devices at screening checkpoints began in November 1996. Since then, additional trace devices were deployed to 18 airports in FY97. More have been sent to 14 other airports so far this fiscal year. A total of 128 devices are in place and being used to provide better security and deterrence. Over 60 more will be purchased and installed at dozens of additional checkpoints and in many more airports during 1998. As specifically recommended by the Com-

mission, 18 advanced automated x-ray devices and 4 other advanced technology devices have also been purchased for FY98 deployment to achieve the broadest possible mix of effective technologies in airports.

3.16—Establish a joint government-industry research and development program. The FAA is encouraged to use the best available technology to solve security and safety challenges throughout the air transportation system.

- In response to a requirement in the Federal Aviation Reauthorization Act of 1996, an agreement to create a National Academy of Sciences Panel on Assessment of Technologies for Aviation Security was signed by FAA and the Academy on May 19, 1997. The panel's statements of work and membership have been approved. It will assess the results of the advanced security equipment deployments, hardened cargo container tests and planned deployments, and then recommend how to more effectively deploy explosives' detection systems and hardened containers to improve security. The first panel meeting was held on January 29, 1998.

3.17—Establish an interagency task force to assess the potential use of surface-to-air missiles against commercial aircraft.

- In 1992, the FAA convened an Off Site Threat Working Group to examine this threat. The group has conducted tests to develop target acquisition capabilities using simulators and resources provided by the Department of Defense. The FAA is developing exercises to evaluate the effectiveness of existing policies and procedures to counter and manage such a threat to civil aviation.
- The Commission recommended the creation of an interagency effort headed by the Department of Defense to evaluate the risk posed by surface-to-air missiles to civil aviation. The DOT is directly involved in the Civil Aviation Anti-Missile Defense Task Force. Besides DOD and DOT, the Task Force also includes representatives from the State Department and the FBI. The Task Force's objective is to develop a plan to identify security procedures for use in managing, countering, and resolving man-portable surface-to-air missile threat at all major airports in the United States. The Task Force has formed three working groups: aircraft protection; civil aviation protection (including threat reaction planning); and international agreements.

3.18—Significantly expand the use of bomb-sniffing dogs.

- The canine explosives detection team concept has been an important part of aviation security strategy for many years. FAA and operators of nearly 40 of the largest airports have signed a comprehensive, cooperative agreement on canine explosives detection teams. It asks airport authorities to place more teams on-site to screen suspicious bags, packages and cargo, and to search airliners and terminals after bomb threats. The Omnibus Consolidated Appropriations Act of 1997 provided

$8.9 million for reimbursement to airports that signed the agreement to cover specified direct costs up to specific limits.

- In one of many interagency partnerships, the FAA and the Treasury Department's Bureau of Alcohol, Tobacco and Firearms (BATF) signed an agreement last year outlining the principles governing a joint research pilot project. They then began the project, using one FAA certified trained dog and handler team and one BATF certified trained dog and handler team working in parallel with each team combining with a Washington Metropolitan Airport Authority officer. Teams are composed of two dogs per team. Protocols to govern testing and other procedures are being formulated to make sure the teams can reliably detect explosives and to develop information concerning the merits of the different training approaches from the standpoint of the operational use of such teams.
- Separately, BATF is expanding its explosives detection canine program infrastructure at Front Royal, Virginia, to train additional canines for various customers and applications. An Odor Proficiency Standard was published in the Federal Register on January 19, 1998. BATF is working with FAA and a number of other federal agencies to develop and refine this basic odor recognition standard for use by various agencies in evaluating canines throughout the United States. Odor Proficiency Standards were published in the January 19, 1998 Federal Register and are still being refined.
- During 1997, the FAA trained 54 handlers and 60 dogs. The first "FAA exclusive" class of K–9 handlers graduated from the Military Working Dog School at Lackland Air Force Base, Texas on March 25, 1997. The most recent class began on January 8, 1998 with three more classes scheduled this year in a program that can produce up to 52 handlers per year. FAA expanded the program from 87 canine explosives detection teams in 1996 to 130 teams at 38 airports across the country so far this year. As program expansion continues, by the end of 1998, there will be about 154 teams at approximately 40 airports.
- The program remains voluntary on the part of airports. Those not in the current program are unlikely to join without adequate cost sharing by the federal government. Future growth is therefore a function of available funding.

3.19—Complement technology with automated passenger profiling.

- One of the greatest success stories in implementing Commission recommendations is the cooperative effort to produce and deploy an effective automated passenger profiling system without compromising individual civil liberties.
- By mid–1996, FAA, through a grant to Northwest Airlines, had developed a prototype automated passenger profiling system known as Computer-Assisted Passenger Screening or CAPS. In September 1996, a follow-on grant was awarded to Northwest both to refine the program to achieve operational capability and to assist in adapting CAPS to other airlines' reservation systems. Northwest met with other air carriers in the fall, conducted preliminary system tests during the winter, and progressed to operational tests on selected flights in its system in

April 1997. Northwest has completed the process of phasing in CAPS throughout its domestic system with over 150 stations on-line today.

- American, Continental, US Airways, Delta, TWA, and United Airlines, covering all major reservation systems, began work on developing their CAPS systems in May 1997. On February 5, 1998, United Airlines implemented CAPS at all 225 of its domestic stations (including United Express). Some other carriers have begun field-testing CAPS. FAA is helping fund these efforts through cooperative agreements, which will disburse to the carriers funding appropriated by Congress for CAPS.
- It is anticipated that all major carriers will have phased in CAPS voluntarily before new federal regulation mandates its use as the method of determining which passengers' bags must be subjected to additional security measures, such as bag matching or screening with explosives detection systems. As the use of CAPS expands, security improves, since CAPS offers numerous advantages over its manual alternative, including greater sophistication, speed, protection against the compromise of sensitive security information, and objectivity.
- The Departments of Transportation and Justice are sensitive to public concerns about the potential for discriminatory treatment whenever a process is in place that results in more rigorous security measures applied to some passengers than to others. Great care has been taken to ensure that CAPS does not infringe civil liberties. In accordance with a recommendation of the Commission, DOT submitted the profiling elements to the Department of Justice's Civil Rights Division for review. On October 1, 1997, the Department of Justice issued its report, which found that CAPS: (1) "fully complies with the equal protection guarantee incorporated in the Fifth Amendment to the Constitution"; (2) "does not violate the Fourth Amendment prohibition on unreasonable searches and seizures"; and (3) "does not involve any invasion of passengers' personal privacy."

3.20—Certify screening companies and improve screener performance.

- To begin the regulatory process required by law, the FAA issued an Advance Notice of Proposed Rulemaking on March 17, 1997, to solicit comments on certification of screening companies and other particular issues. The comment period closed on May 1, 1997, and FAA received and reviewed 20 substantive comments. After careful coordination with other efforts to improve security through implementation of these recommendations, the next step is publication in the *Federal Register* of a Notice of Proposed Rulemaking, scheduled for April 1998, followed by a final rule.
- The draft rule proposes to certificate all companies conducting aviation screening, carriers that conduct their own screening, and indirect air carriers that choose to conduct their own cargo screening. Other screening improvements being proposed include establishing management and instructor qualification and training standards, implementing screening company qual-

ity assurance and testing programs, and improving the professionalism of screener training programs.

- FAA continues to provide appropriate training, and to develop utilization standards, clear guidance, and operational procedures in partnership with the airlines to ensure the effective use of equipment by trained and properly motivated air carrier personnel. FAA is also taking steps to improve initial and recurrent training curricula for both checkpoint supervisors and screeners in addition to the certification rulemaking.
- The Supervisory Effectiveness Training (SET) program intends to provides screening supervisors and managers with basic skills necessary to properly control day-to-day operations. The program will establish standards for training such essential skills as interpersonal relations, conflict resolution, leadership, and performance improvement.
- The FAA developed the Screener Proficiency Evaluation and Reporting System (SPEARS) that can help train air carrier screeners through computer-based training and maintain their operational proficiency by projecting the images of dangerous articles on the x-ray monitor during the screening process. It can then track how often the screener correctly detects the projected threat.
- Computer based training systems for checkpoint screeners have been deployed and are now operational at 17 major airports with two more coming on-line soon and additional airport installations planned for this year. They are also available for explosives detection systems. The threat image projection component for conventional x-ray devices and explosives detection systems are also being deployed, as noted under recommendation 3.10.

3.21—Aggressively test existing security systems.

- Since 1991, FAA has used increasingly more realistic tests of security measures, such as those designed to control access, prevent unknown shipments from getting on airplanes, and screen passengers and their bags. Comprehensive and specific procedures for inspecting security systems have been developed. Using a combination of these procedures, including unannounced testing, surveillance, interviews and surprise record reviews, security systems will continue to be aggressively evaluated.
- FAA is steadily increasing the number of its field inspectors and their direct support personnel——119 of the 300 security personnel authorized by Congress in 1996 were brought on board in FY97. They will be focusing not only on doing more comprehensive fieldwork, but also on aggressively testing security systems. This testing can be done in two ways. First, field agents unknown to air carrier and airport security personnel simulate attacks based on standard protocols, and brief the results immediately to screeners and others so they can learn on-the-spot. Second, tests can also be classic "red team" tests in which, except in extreme cases, results are withheld and briefed later to the industry so that a more complete picture of total security system performance can be obtained.

- Red Teams, which are also being increased, started in 1991. Aggressive testing by field agents began in 1995 with tests to determine how well the industry was applying the required profile and conducting baggage searches. With the new resources being provided by Congress and the Administration, tests have already been expanded to the screening of small cargo packages, the matching of passengers and bags, and the screening of passengers and their carry-on items. Literally thousands of tests have been done at screening checkpoints, for example. More types of testing will soon take place, including indirect air carriers, and compliance with background check requirements. FAA is also requiring the airlines and the airports to test their own systems and report the results to the FAA.
- All testing is used to improve performance and achieve compliance. Where performance is only marginally deficient, FAA prefers to use the power of information in a working partnership with industry. But where there are significant problems with critical security systems, FAA will take much more immediate action, hopefully in partnership, but if not, then by using the full force of its enforcement authority.

3.22—Use the Customs Service to enhance security.

- The U.S. Customs Service is deploying 140 positions authorized under anti-terrorism legislation: 100 inspectors, 6 intelligence analysts, 33 special agents, and 1 technical support position. All positions were deployed to major international airports to assist aviation security efforts and to perform increased searches of passengers, baggage, and cargo departing the United States. In addition, analysts and investigators will work with the FBI at its airport offices and Headquarters Counter Terrorism Center to provide specific expertise to anti-terrorism investigations. The Office of Field Operations has developed a national Anti-terrorism/Aviation Safety and Security training program for the 100 inspectors that will begin at the Federal Law Enforcement Training Center in the spring of 1998. The Customs Service is in the process of evaluating, selecting, and deploying high technology equipment such as mobile baggage and cargo x-ray units. FAA and Customs Service are studying the technical issues associated with converting Customs' Automated Targeting System (ATS), which is designed for contraband analysis in marine cargo. It may be possible to adapt it for antiterrorism purposes in air cargo.
- Customs equipment deployment plans for FY98 and beyond includes:

  24 mobile x-ray vans [with radiation/explosives/drug detection capabilities] are scheduled to be delivered by July 1998. Seven additional vans to be purchased in FY98.

  Delivery in August of 11 portable x-ray systems and explosives/drug detectors [cart mounted] for mail and courier use.
- 675 out of 1700 radiation pagers will be delivered to the field in FY98. Customs and DOE have developed a radiation detection training program. Implementation is being coordinated with FAA and airport authorities.

3.23—Give properly cleared airline and airport security personnel access to the classified information they need to know.

- FAA has worked closely with industry to ensure that security clearances are granted to those in industry who have a need and meet the requirements for a clearance. This long-standing program continues. The FAA has once again reaffirmed its policy to collaborate with airlines and airports in developing responses to threat information, and disseminate vulnerability assessments to appropriately cleared officials.

3.24—Begin implementation of full bag-passenger match.

- On December 23, 1997, FAA Administrator Jane Garvey and leading U.S. airlines announced that passenger bag matching will be expanded, using passenger screening to apply either examination by explosives detection systems or bag matching to domestic passengers' luggage. Bag matching is a security measure in which a passenger's bags will not be transported unless the passenger is on the flight. It already is done for travelers on international flights and has been done on a limited basis for domestic flights.
- Expanded bag matching will be based upon both computer and manual passenger screening systems during the transition to fully computerized passenger screening. The Computer Assisted Passenger Screening (CAPS) system (see Recommendation 3.19) is being used to select passengers whose checked baggage will be subjected to explosives detection examination or expanded bag matching. CAPS uses information from the reservation system to screen out passengers for whom additional security procedures are unnecessary. If not enough is known about a passenger to make a judgment, then additional security measures in the form of explosives detection device screening or bag matching will be applied. CAPS will also select some passengers at random for these additional security measures.
- CAPS is now being instituted. Use of CAPS will increase throughout 1998 while the manual process is phased out for those carriers having access to computerized reservation systems. The new computerized system is more efficient for airlines to use and protects against the release of sensitive security information. As the airlines voluntarily implement CAPS, the FAA will issue regulations requiring its use. The proposed rule for the automated system is being drafted and the final rule is targeted for completion this year.

3.25—Provide more compassionate and effective assistance to families of victims.

- See actions taken in Chapter 4.

3.26—Improve passenger manifests.

- The Department of Transportation issued on February 12, 1998, a final rule to require enhanced passenger manifests for flights to or from the United States. The rule will require U.S. and foreign air carriers to collect a full name from U.S citizens, as well as to solicit a contact name and phone number. Imple-

mentation of the rule will permit the Department of State to carry forth its responsibility to notify families of U.S. citizens killed overseas in a timely manner. In March 1997, DOT issued an ANRM to collect information on an enhanced passenger manifest system for domestic flights. DOT will review the implementation of the international rule during its consideration of the comments to the ANPRM.

3.27—Significantly increase the number of FBI agents assigned to counterterrorism investigations, to improve intelligence, and to crisis response.

- The FBI has expanded its counterterrorism program. Congress has provided funding for 644 Special Agents, 620 Support positions, and additional funding for investigations, intelligence gathering, forensic analysis, and crisis management. These additional personnel will be assigned to field offices throughout the United States to focus added resources in this critical area, improve our intelligence collection, and expand our management capabilities. It is anticipated that these field agents and support employees will be under transfer to the Counterterrorism Program by April 30, 1998.

3.28—Provide anti-terrorism assistance in the form of airport security training to countries where there are airports served by airlines flying to the U.S.

- The FAA has been a full partner with the Department of State in support of its anti-terrorist assistance program for many years. FAA performs training need surveys and conducts training in airport security management. The FAA Academy's international training service center in Oklahoma City provides airport security training on a fee-for-service basis to foreign countries.
- Since 1986, the U.S. Department of State and FAA have been providing anti-terrorism assistance in the form of airport security training through the Anti-Terrorism Assistance Program (ATAP). Additional training is provided to personnel at selected foreign airports where specialized assistance, as determined by the results of the FAA foreign airport assessments, is needed.
- Since the Commission's recommendations were released, over 270 people from 35 countries have been trained.

3.29—Resolve outstanding issues relating to explosive taggants and require their use.

- BATF is preparing to submit to Congress a report regarding the status, progress, findings and recommendations regarding the use of explosive taggants. The draft report has been reviewed by Treasury, OMB and others and has now been revised by BATF. The report was resubmitted to Treasury for final approval.

3.30—Provide regular, comprehensive explosives detection-training programs for foreign, federal, state, and local law enforcement, as well as FAA and airline personnel.

- The FAA has two explosives' specialists and nine regional coordinators who specialize in explosives related threat analysis, countermeasures development and training tailored to the needs of civil aviation security. Training has been conducted for law enforcement officers, consortia, airport managers, and security checkpoint screeners on a broad range of explosives' detection topics for both domestic and international audiences. Civil aviation security training was provided to military joint service Explosive Ordnance Disposal classes and regional conferences of the International Association of Bomb Technicians and Investigators, and at the Annual European Bomb Technician's Symposium. During FY97 the Bureau of Alcohol, Tobacco and Firearms (BATF) conducted 9 explosives related courses for state and local law enforcement and prosecutors as well as 6 international post-blast classes on behalf of Federal Law Enforcement Training Center (FLETC). Eight additional international classes are planned for FY98. BATF also conducted 3 certification and 5 recertification schools for explosive specialists, 1 class for certified fire investigators, and 10 post-blast schools for BATF agents.
- BATF and the FAA jointly produced four explosives security-training videos with instructor and student guides for both aviation industry and law enforcement use in their training programs. These videos cover an introduction to explosives and such topics as improvised explosive devices, airport bomb threat management, and dealing with suspected explosive devices discovered in the cabin of aircraft in-flight. The FAA's 8th annual conference on canine explosives detection was attended by 165 federal, state, and local law enforcement personnel who received 20 hours of training on explosives detection topics ranging from detection technology R&D to safety and other operational issues.

3.31—Create a central clearinghouse within government to provide information on explosives crime.

- The Bureau of Alcohol, Tobacco and Firearms (BATF) is working in partnership with the Federal Bureau of Investigation's (FBI) Bomb Data Center, all Federal, State, and local law enforcement and fire agencies to develop parameters and protocol for the repository information on arson and the criminal use of explosives. A number of coordinating meetings has been held and a system design company, Performance Engineering Contractors, has conducted interviews. FBI and BATF are discussing leadership roles in the central repository. Ultimately, this program will allow different levels of access to a central database of information through the Internet.
- The National Repository concept is based on BATF's Explosives Incidents System (EXIS) and will now be called AEXIS for Arson and Explosives Incidents System. EXIS information is available to state, local, federal, and foreign enforcement agencies and can be used to match targets, motives, and simi-

lar incidents for incendiary and explosive devices. The system developer interviews have been completed and the AEXIS is currently being tested by BATF to resolve pre-operational problems.

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LOOKING FORWARD

Much was accomplished in the first year of implementing the recommendations of the White House Commission. A total of 15 recommendations have been fully implemented, and substantial progress has been made on the remainder. Much more will be accomplished in the second year. Among the recommendations to be fully implemented in 1998 are:

1. IMPROVING AVIATION SAFETY

1.4—The Federal Aviation Regulations (FARs) should be simplified and, as appropriate, rewritten as plain English, performance-based regulations. FAA has developed and distributed guidance handbooks for writing in plain English. The agency is currently reviewing planned and existing regulations for candidates for change.

1.10—The FAA should develop better quantitative models and analytic techniques to inform management decision-making. FAA developed and will begin implementing a long-term plan for coordinated model development, documentation, and utilization; FAA will also make its new cost accounting system, now baselined, fully operational.

2. MAKING AIR TRAFFIC CONTROL SAFER AND MORE EFFICIENT

2.2—The FAA should develop plans to ensure that operational and airport capacity needs are integrated into the modernization of the NAS. A Concept of Operations has been incorporated; FAA will identify and integrate airport capacity needs.

3. IMPROVING SECURITY FOR TRAVELERS

3.2—The FAA should establish federally mandated standards for security enhancements. Standards have been established for certification of explosives detection systems, the use of trace explosives detection devices, and canine teams; standards are in process for certification of trace explosives detection devices, and the use of manual and automated profiling programs and automated bag match technology.

3.5—The FAA should implement a comprehensive plan to address the threat of explosives and other threat objects in cargo and work with industry to develop new initiatives in this area. A Report submitted, and FAA is incorporating changes into its Air Carrier Standard Security Program.

3.7—The FAA should work with airlines and airport consortia to ensure that all passengers are positively identified and subjected to security procedures before they board aircraft. Comments were received on proposed changes to Air Carrier Standard Security Program and the program will now be finalized.

3.10—The FAA should work with industry to develop a national program to increase the professionalism of the aviation security workforce, including screening personnel. FAA is improving training curricula and working with airlines to deploy the Screener Proficiency Evaluation and Reporting System (SPEARS).

3.12—Establish consortia at all commercial airports to implement enhancements to aviation safety and security. Consortia have been established at 41 major airports and will be expanded to 200 airports by the end of 1998.

3.15—Deploy existing technology. FAA has begun deployment of trace explosives detection devices and SPEARS; deployment of 79 explosives detection systems and advanced automated security devices will continue through 1998.

3.19—Complement technology with automated passenger profiling. Deployment of Computer Assisted Passenger Screening [CAPS] System has begun to all airline reservation systems.

There are several factors that will affect implementation of all the White House Commission recommendations, including those described above.

First, new recommendations have been made and new directions set over the last year. The National Civil Aviation Review Commission (NCARC), established by Congress, evaluated FAA financing and aviation safety. The main financing conclusion was that FAA cannot continue "business as usual", but must pursue innovative financing, including user charges to finance a "Performance-Based Organization" to provide air traffic management services. NCARC's main safety recommendation was for FAA to develop a "Safety Strategic Plan" that prioritizes safety initiatives such as those proposed by the White House Commission.

At the same time, the Department of Transportation and each of its operating administrations have developed new Strategic Plans. For aviation, the key mission areas are the same: safety, security, and an efficient aviation system that serves mobility and economic development. FAA's plan in particular focuses on a core set of priority areas and projects that it will track corporately. Many of the White House Commission's recommendations form the basis for that top priority list.

Another factor that has influenced the speed at which some key White House Commission recommendations are implemented is financing. Congress provided $144 million in supplemental funding in FY 1997 toward the deployment of 54 explosives detection systems, which is proceeding. The White House Commission recommended funding of $100 million per year. A request for $100 million is included in the President's FY 1999 budget request.

Other key recommendations where funding is crucial include accelerated modernization of the National Airspace System (NAS), the related recommendation to ensure the accuracy, availability, and reliability of the Global Positioning System (GPS) for satellite navigation, and conducting research emphasizing human factors and training. No new funding was provided in FY 1997 or 1998. The President's FY 1999 budget proposes a $90 million increase in the Research, Engineering, Development account and a $254.5 million increase in Facilities and Equipment FY 1998 levels. The

President's budget allows us to keep modernization of the air traffic control system on track.

It is here that the financial recommendations of NCARC will come into play, as carried forward in new FAA reauthorization legislation to be introduced in Congress. A key NCARC principle is that, while FAA's safety functions should be paid for by the general public, direct users of air traffic management services should be charged the costs of a separate, performance-based organization to provide those services. The NCARC recommended funding of the safety function should be kept separate, to preserve objectivity and promote safety throughout the aviation system. Those should be goals of Congress, the aviation community, and the Executive Branch in considering the next FAA reauthorization.

Many White House Commission recommendations have been and will be implemented with little or no new external funding. Most are on target to be implemented as planned. In a few cases, issues have been raised that must be considered in implementing recommendations. The Postal Service, for example, has some concerns about screening mailed packages weighing over a pound. These, however, will be addressed. The Federal Government remains committed to timely implementation of the far-reaching recommendations of the White House Commission on Aviation Safety and Security.

d. Security for Passenger Vessels and Passenger Terminals

Navigation and vessel inspection circular no. 3-96, U.S. Department of Transportation, United States Coast Guard, 1996

COMDTPUB P16601
NVIC 3-96

NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 3-96

Subj: SECURITY FOR PASSENGER VESSELS AND PASSENGER TERMINALS
Ref: (a) Title 33 CFR parts 120 and 128

(b) COMDTINST M16000.12 Marine Safety Manual Vol. VII, Port Security

(c) International Maritime Organization MSC/Circ. 443, "Measures To Prevent Unlawful Acts Against Passengers And Crews On Board Ships"

(d) COMDTINST M5530.1A, Physical Security Program

1. PURPOSE. This Navigation and Vessel Inspection Circular (NVIC) describes the procedures required to implement the new passenger vessel security regulations of Title 33 CFR parts 120 and 128 (reference (a)), that were published on July 18, 1996. Guidance is provided for processing Terminal and Vessel Security Plans, assessing the adequacy of those plans, and establishing annual reporting requirements, incident reporting, and threat dissemination procedures.

2. ACTION. Director, National Maritime Center (NMC), Commanding Officers of Marine Safety Offices, and Captains of the Port (COTP) shall comply with the requirements of this circular.

3. DIRECTIVES AFFECTED. The NVIC affects COMDTINST M16000.12, Marine Safety Manual Vol. VII, Port Security, 2-C.1.b "Physical Security Assessments,"and 2-D "Physical Security Standards" (reference (b)). The information contained in this instruction will be incorporated into the next change to the Marine Safety Manual Vol. II, COMDTINST M16000.12.

4. BACKGROUND.

a. In 1985, a U.S. citizen was killed during the seizure of the ACHILLE LAURO. Since then, the vulnerability of passenger vessels and associated passenger terminals to acts of terrorism has been a significant concern for the international community.

b. To address this threat, the President signed into law the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99–399; 100 Stat. 889). Title IX of this law constitutes the International Maritime and Port Security Act. This act amended the Ports and Waterways Safety Act, which then provided the Coast Guard authority to "carry out or require measures, including inspections, port and harbor patrols, the establishment of security

and safety zones, and the development of contingency plans and procedures, to prevent or respond to acts of terrorism." This law also required a proposed plan of action for implementation of security measures at U.S. ports and passenger vessels operating from those ports.

c. Also in 1986, the International Maritime Organization published MSC/Circ. 443 "Measures To Prevent Unlawful Acts Against Passengers And Crews On Board Ships" (reference (c)). This document was the basis for much of the U.S. legislation and rulemaking that followed. In April 1987, the Coast Guard published a notice in the *Federal Register* which listed voluntary security measures based upon reference (c). Since then, the Coast Guard has observed varying degrees of implementation of these measures aboard passenger ships and at passenger terminals. This inconsistency, coupled with the rising spectre of domestic terrorism, indicated that establishment of minimum mandatory security requirements was necessary. As a result, reference (a) was published on July 18, 1996.

5. APPLICABILITY.

a. Passenger Vessels. Reference (a) applies to all passenger vessels over 100 gross tons, carrying more than 12 passengers for hire; making voyages lasting more than 24 hours, any part of which is on the high seas; and for which passengers are embarked or disembarked in the United States or its territories; except, ferries that hold Coast Guard Certificates of Inspection endorsed for "Lakes, Bays, and Sounds", and that transit international waters for only short periods of time on frequent schedules.

b. Passenger Terminals. All passenger terminals used for the assembling, processing, embarking, or disembarking of passengers or baggage for passenger vessels to which reference (a) applies must also comply.

6. DEFINITIONS. For the purpose of interpreting the requirements of reference (a), the following terms are defined:

a. High Seas. "High seas" means all waters that are neither territorial nor internal waters of the United States or of any foreign country.

b. Operator. "Operator" means the person, company, or governmental agency or the representative of a company or governmental agency, that maintains operational control over a passenger vessel or passenger terminal.

c. Passenger Terminal. "Passenger terminal" means any structure used for the assembling, processing, embarking, or disembarking of passengers or baggage for passenger vessels. The passenger terminal includes piers, wharves, and similar structures to which a vessel may be secured; land and water under or in immediate proximity to these structures; buildings on or contiguous to these structures; and equipment and materials on or in these structures.

d. Unlawful Act. "Unlawful Act" means an act that is a felony under U.S. Federal law, under the laws of the State where the vessel is located, or under the laws of the country in which the vessel is registered.

e. Voyage. "Voyage" means the passenger vessels entire course of travel, from the first port at which the vessel embarks passengers

until its return to that port or another port where the majority of the passengers are disembarked and terminate their voyage.

f. Low threat. "Low threat" means the threat of an unlawful act against a passenger vessel or terminal is, though possible, not likely.

g. Medium threat. "Medium threat" means the threat of an unlawful act against a passenger vessel or terminal is possible and that intelligence indicates that terrorists are likely to be active within a specific area, or against a type of vessel or terminal.

h. High threat. "High threat" means the threat of an unlawful act against a passenger vessel or terminal is probable or imminent and that intelligence indicates that terrorists have chosen specific targets.

7. PROCEDURES. Security plans for passenger vessels and terminals must be examined by the Coast Guard. These plans are law enforcement documents and as such are not releasable through the Freedom of Information Act. Passenger Vessel Security Plans are reviewed by the NMC and Passenger Terminal Security Plans are reviewed by the cognizant COTP. No vessel shall embark from or disembark to a terminal which does not hold an examined Terminal Security Plan or a letter from the COTP stating that normal operations may continue until plan review is completed. Likewise, no terminal shall transfer passengers to or from a passenger vessel unless it holds either an examined Vessel Security Plan or a letter from the NMC stating that normal operations may continue until plan review is completed.

a. Vessel Plans.

(1) Vessel operators are responsible for preparing and holding a security plan which meets the requirements of reference (a). Operators must submit two copies of the plan to the NMC at least 60 days before embarking passengers on any voyages which cause the vessel to fall under this regulation, or before October 16, 1996, whichever is later.

(2) If, within 30 days of receipt of a Vessel Security Plan, the NMC is unable to complete the review, a letter will be issued to the vessel operator stating that the Vessel Security Plan is currently under review and granting permission for vessel operations to continue until the examination is completed. The NMC then has an additional 150 days (a total of 180 days from receipt of the plan) to complete an examination and provide a response.

(3) If the NMC finds that the plan meets the requirements of reference (a), the NMC shall mark both copies "Examined by the Coast Guard", return one copy to the vessel operator, and retain the second copy.

(4) If the NMC finds the Vessel Security Plan does not meet the requirements of reference (a), the NMC shall return the plan with an explanation of why it does not meet the requirements to the vessel operator. The second copy of the plan, along with a copy of the response, will be retained by the NMC. Except in emergencies, the NMC will allow the vessel operator 60 days to comply with the requirements.

(5) Each proposed amendment to the plan initiated by the operator of apassenger vessel, including changes to enclosures, must be submitted to the NMC for review at least 30 days before the

amendment is to take effect. The NMC has the discretion to allow a shorter period of time. Copies of accepted amendments shall be retained by the NMC.

(6) If the COTP determines that implementation of the plan is not providing effective security, the COTP shall advise the NMC. The NMC will evaluate the plan based on the COTPs report, and, except in an emergency, will issue to the vessel operator a written notice of matters to address and will allow the vessel operator at least 60 days to submit proposed amendments.

(7) The COTP may give the vessel operator an order to implement increased security measures immediately. The order will incorporate an explanation of the reasons for which the additional measures are necessary.

(8) The COTP shall annually make a brief examination of the vessel's security activities during visits for other purposes, such as control verification examinations. The purpose of the review is to ensure the vessel's security operations are consistent with the plan and will include verifying the presence of an examined security plan on board the vessel, reviewing reports of unlawful acts, and observing the security practices actually in place.

b. Terminal Plans.

(1) Terminal operators are responsible for preparing and holding a security plan which meets the requirements of reference (a). Operators must submit two copies of the plan to the COTP at least 60 days before passengers embark or disembark to or from a vessel, or by October 16, 1996, whichever is later.

(2) If, within 30 days of receipt of a Terminal Security Plan, the COTP is unable to complete the review, a letter will be issued to the terminal operator stating that the Terminal Security Plan is currently under review and granting permission for terminal operations to continue until the examination is completed. The COTP then has an additional 150 days (a total of 180 days from receipt of the plan) to complete an examination and provide a response.

(3) If the COTP finds that the Terminal Security Plan meets the requirements of reference (a), the COTP shall mark both copies "Examined by the Coast Guard", return one copy to the terminal operator, and retain the second copy.

(4) If the COTP finds the Terminal Security Plan does not meet the requirements of reference (a), the COTP shall return the plan with an explanation of why it does not meet the requirements to the terminal operator. The second copy of the plan, along with a copy of the response, will be retained by the COTP. Except in emergencies, the COTP will allow the terminal operator 60 days to comply with the requirements.

(5) The COTP may direct passenger terminal operators to initiate amendmentsto the Terminal Security Plan if the COTP determines that implementation of the plan is not providing effective security. Except in an emergency, the COTP will issue to the operator a written notice of matters to address and will allow the operator at least 60 days to submit proposed amendments.

(6) Each proposed amendment to the plan initiated by the operator of a passenger terminal, including changes to enclosures, must be submitted to the COTP for review at least 30 days before the amendment is to take effect. The COTP has the discretion to allow

a shorter period of time. Copies of accepted amendments shall be retained by the COTP.

(7) The COTP may give the terminal operator an order to implement increased security measures immediately. The order will incorporate an explanation of the reasons for the COTP order.

(8) The COTP shall ensure that the plan reflects the procedures actually in place by conducting annual onsite assessments. The assessment shall consist of verifying the presence of an approved security plan at the terminal, reviewing reports of unlawful acts, and observing the security practices actually in place. The port physical security checklist (enclosure 2–3 to reference (b)) is not required. This process supersedes the annual reporting requirement established by 2-C.1.b "Physical Security Assessments" in reference (b).

c. Enforcement. The COTPs and Commanding Officers of Marine Safety Offices are authorized use of enforcement tools such as Letters of Warning, Notices of Violation, and COTP Orders to gain compliance with this regulation. Civil and criminal penalties are authorized under the provisions of 33 U.S.C. 1221.

d. Right of Appeal. Any person directly affected by a decision or action taken by the NMC may appeal that action or decision to the Chief, Marine Safety and Environmental Protection (Commandant (G-M)) according to the procedures in 46 CFR 1.03–15. Any person directly affected by a decision or action taken by the COTP may appeal that action or decision to the cognizant District Commander according to the procedures in 46 CFR 1.03–15; the District Commander's decision may be further appealed to the Commandant according to the procedures in 46 CFR 1.03–25.

8. INCIDENT REPORTING. Passenger vessels and terminal operators are required to report each breach of security, unlawful act, or the threat of an unlawful act against a vessel, terminal, or the persons aboard them. For incidents that occur within the jurisdiction of the United States, the operator or the operator's representative shall make the report to the cognizant COTP and to the local office of the Federal Bureau of Investigation as soon as possible. Incidents that occur outside of the jurisdiction of the United States shall be reported as soon as practicable to Commandant (G-MOR), 2100 Second Street, SW., room 2100, Washington, DC 20593. Each report must include, to the extent known, the following information:

(1) The vessel's name;

(2) The vessel's flag;

(3) The name of the vessel's master;

(4) If the vessel is moored to a passenger terminal, the name of the terminal security officer;

(5) An account of the incident;

(6) The date, time, and place of the incident;

(7) The number of alleged offenders;

(8) The method used to introduce any prohibited weapon, incendiary, or explosive into or onto the vessel;

(9) A description of any weapon, incendiary, or explosive involved;

(10) A description of how any weapon, incendiary, or explosive involved was concealed and used;

(11) A description of how security was breached;

(12) A statement of what measures have been taken or will be taken to prevent another such incident; and

(13) Each report must stay on file with the security plan for a period of two years. All reports shall be used by the person preparing the ship security survey.

9. THREAT LEVELS.

a. In conjunction with the U.S. Department of Transportation's Office of Intelligence and Security, the Commandant shall direct the implementation of nationwide and local threat levels. The primary means of communicating threat information will be through Domestic Threat Advisories. These advisories will summarize the nature of the threat and will specify changes, if any, to nationwide or local threat levels. The COTPs are expected to share the contents of these advisories with local industry either directly or through appropriate forums such as the port readiness committee.

b. Area Commanders, District Commanders, and COTPs may declare a higher threat level within their respective areas of responsibility, but may not lower a threat level imposed by a higher authority. A change in the local threat level shall be reported to Commandant (G-MOR) via message. The message shall specify the new threat level and reasons for the change.

c. Terrorist Threat Conditions (THREATCONS) (see reference (d)) are used to describe Coast Guard and inter-service support of U.S. military anti-terrorism activities. In other words, THREATCONS describe military security conditions. These THREATCONS are not, in any way, related to thethreat levels described in reference (a), which describe security conditions that affect passenger terminals and vessels.

d. A Security Plan Evaluation Guide (enclosure (1)) was developed using the guidelines in IMO Circular 443. It provides guidance to the industry, COTPs, and the NMC regarding the examination of plans and the security measures that passenger vessels and terminals should take at low, medium, and high threat levels. The COTPs and District Commanders are encouraged to review local contingency plans to ensure that they are complementary to the measures that will be taking place within industry. An underlying assumption in the development of the regulation and this circular is that at high threat levels (or earlier, if warranted) the COTP and other appropriate Federal agencies will be actively involved in assuring the security of affected vessels and terminals. Coordination between the terminals, vessels, COTPs and other local, state, and Federal agencies is imperative for effective security.

J. C. CARD
Rear Admiral, U.S. Coast Guard
Chief, Marine Safety and Environmental Protection
Encl: (1) Security Plan Evaluation Guide

SECURITY PLAN EVALUATION GUIDE

The National Maritime Center (NMC) and Captains of the Port (COTP) should consider the guidelines contained herein when reviewing security plans.

A. TERMINAL SECURITY PLAN.

1. Objectives. The plan should cover procedures for periods of low, medium, and high threats that—

a. Deter unauthorized access to the terminal and its restricted areas and to any passenger vessel moored at the terminal;

b. Deter the introduction of prohibited weapons, incendiaries, and explosives into the terminal and its restricted areas and onto any passenger vessels moored at the terminal;

c. Encourage vigilance, as well as general awareness of security, at the terminal;

d. Provide adequate training to employees of the terminal for security at the terminal;

e. Coordinates responsibilities for security between the operator of each vessel that embarks or disembarks passengers and the terminal operator;

f. Provide information to employees of the terminal and to law-enforcement personnel, in case of an incident affecting security;

g. Provide for amendment of the plan to address any known deficiencies; and

h. Restrict the distribution, disclosure, and availability of information contained in the plan to those persons with an operational need to know.

2. Contents. The COTPs should ensure that security plans contain at least the following information and actions:

a. Terminal Security Officer. The terminal security officer should be identified in the security plan. A list of responsibilities for the terminal security officer and all other security functions should be clearly outlined.

b. Security Survey. Security surveys should be updated at least yearly, or more frequently as needed. The survey should include the date of the survey; names of the owner and operator of the terminal; the name, business address, and telephone number of the terminal security officer; a description of the terminal that includes general layout and access points; intensity of security lighting; restricted areas; emergency equipment; location of firearms and ammunition at the terminal; list of persons authorized to carry firearms and type of firearms carried; number of security personnel employed; and number of other employees normally at the terminal when a vessel embarks and disembarks passengers.

c. Standard Operating Procedures. Any standard operating procedures related to security should be included in the plan. These may include reporting procedures, watchstanding instructions, basic relief schedules, and etc.

d. Barriers. Barriers and their boundaries, when used between restricted and unrestricted areas in the terminal area, should be clearly defined by walls, fences, environmental design, or other security barriers that are either permanent or temporary in nature. They should be designed, located, and constructed to—

(1) Delineate the area protected;

(2) Create a physical and psychological deterrent to persons attempting unauthorized entry;

(3) Delay intruders and enable security personnel to detect intruders;

(4) Have a minimum number of openings that provide readily identifiable places for the controlled entry of persons and vehicles into the restricted area;

(5) Be secured when not watched by security personnel;

(6) When near roadways, must be reinforced to deter penetration by motor vehicles; and

(7) Be kept clear of trees, bushes, and other obstructions.

e. Alarms. Alarms, when used, should activate an audible or visual alarm when an intrusion is detected. The alarm should sound in a place which is continuously staffed by personnel with security responsibilities.

f. Lighting. Passenger terminal operators should provide security lighting between sunset and sunrise. All external lighting should be located or shielded so that it will not be confused with an aid to navigation and will not interfere with safe navigation. Illumination should light each exterior door, gate, fence, pier, wharf, or other point of access to the boarding area for passenger vessels.

g. Communications. Communications should specify the kind of communications to use for a breach of security, an unlawful act or other emergency.

(1) Security personnel of the terminal should be provided a means of continuous communications, such as radio, telephone, or intercom, that enables them to communicate with the terminal security officer, the communications center, or security personnel of the passenger vessel from their duty stations.

(2) Communications should be established immediately with each passenger vessel that docks at the terminal.

(3) A distress signal peculiar to security, indicating a security alert, should be established.

h. Screening. When screening is conducted, it may be done manually, electronically, or by an equivalent means acceptable to the COTP. One or more guards should watch each screening point, whenever passengers or baggage are being assembled, processed, embarked, or disembarked at the terminal. Screening systems should be capable of detecting prohibited weapons, incendiaries, and explosives in accordance with the Terminal Security Plan.

(1) No person refusing to submit to a security screening at a point of access should enter the boarding area.

(2) Each person denied entry for refusing to submit to a security screening should be identified and reported to appropriate authorities.

(3) Security equipment should be kept in good working condition and checked monthly. Records of checks should be maintained for at least 30 days after the date of the check.

(4) Procedures should be in place to ensure any defective or missing security equipment is reported immediately to the terminal security officer.

i. Baggage. Each piece of baggage should be marked, labeled or tagged, or otherwise identified as belonging to a particular passenger. During mediumand high threat periods, it should be compared against the official passenger list of the vessel prior to being loaded aboard the vessel. No unidentified baggage should enter the boarding area.

j. Identification. Each passenger terminal operator should establish a system of identification and control of personnel for the terminal. The plan should cover the following procedures for:

(1) Identifying each person authorized access to a restricted area in the terminal;

(2) Issuing an identification card to each employee of the terminal (permanent identification cards shall contain the cardholder's name, age, height, weight, eye color, expiration date, name of the company that employs the cardholder and an unique number);

(3) Providing a temporary identification card to each contractor, vendor, and other visitor authorized access to a restricted area; and

(4) Identifying each passenger, each time a passenger enters the boarding area.

k. Designated restricted areas. Designated restricted areas should be outlined in the security plan. Restricted areas should be appropriately secured with access limited to authorized personnel. Each restricted area should be secured and conspicuously marked stating that the area has restricted access. Passenger terminals should designate the following areas as restricted areas:

(1) Points of access to the boarding area;

(2) Boarding area for passengers adjacent to where such vessels moor, inside the security barriers and screening points;

(3) Areas for the handling and storage of baggage and cargo;

(4) Areas used to store weapons;

(5) Control rooms for security alarms and monitoring devices; and

(6) Any other areas, as determined by the operator, to which access must be restricted to maintain the security of the terminal and passenger vessels moored at the terminal.

l. Coordination. The Terminal Security Plan should outline all coordination plans and procedures established with the operator of each passenger vessel. The terminal need not duplicate any security provisions fulfilled by the vessel. All responsibilities should be clearly outlined in the plan stating who is responsible for which actions. Copies of agreements should be contained in the security plan.

m. Threat levels. There are three required levels, low, medium, and high.The Terminal Security Plan shall include required actions for each threat level. As a minimum, the following measures should be included:

(1) Low threat level.

—Restricted areas should be included as part of the normal watch routine.

—Baggage, cargo, and stores should be randomly screened.

—Temporary or permanent barriers to maintain segregation between cleared and uncleared passengers and baggage should be utilized.

—Each passenger should show a valid ticket issued by the cruise line to enter the boarding area.

—Each piece of baggage should be marked, labeled or tagged, or otherwise identified as belonging to a particular passenger.

(2) Medium threat level.

—The frequency of security rounds should be double that of the normal watch routine.

—Fifty percent of all baggage, cargo and stores should be screened.

—All passengers and carry-on items should be screened.

—Temporary or permanent barriers to maintain segregation between cleared and uncleared passengers and baggage should be utilized.

—Passengers 18 years of age or older should have a valid ticket and a valid photo identification document, such as a driver's license, passport, or armed forces identification card to enter the boarding area.

—Baggage should be compared against the official passenger list of the vessel prior to being loaded aboard the vessel.

(3) High threat level.

—Restricted areas should have detection systems that activate an audible visual alarm or guards must be posted outside.

—All baggage, cargo and stores should be screened.

—All passengers and carry-on items should screened.

—Buildings and natural barriers such as water, or ravines should be augmented by additional safeguards such as fences, walls, patrols or surveillance.

—Each entering passenger should be compared to official passenger list prior to being allowed in the boarding area.

—Baggage should be compared against the official passenger list of the vessel prior to being loaded aboard the vessel.

o. Amendments. Amendments to the security plan must be included in the security plan. All amendments must bear the notation "Examined by the Coast Guard COTP (port name)" and the date of examination.

B. VESSEL SECURITY PLAN.

1. Objectives. The plan should cover procedures for periods of low, medium, and high threats that—

a. Deter unauthorized access to the vessel and its restricted areas;

b. Deter the introduction of prohibited weapons, incendiaries, and explosives aboard the vessel;

c. Encourage vigilance, as well as general awareness of security, aboard the vessel;

d. Provide adequate training to members of the crew for security aboard the vessel;

e. Coordinate responsibilities for security between the vessel operator and the operator of each terminal at which the vessel embarks or disembarks passengers;

f. Provide information to members of the crew and to law-enforcement personnel, in case of an incident affecting security;

g. Provide for amendment of the plan to address any known deficiencies; and

h. Restrict the distribution, disclosure, and availability of information contained in the plan to those persons with an operational need to know.

2. Contents. The NMC should ensure that security plans contain at least the following information and actions:

a. Vessel Security Officer. The terminal security officer should be identified in the security plan. A list of responsibilities for the terminal security officer and all other security functions should be clearly outlined.

b. Security Survey. Security surveys should be updated at least yearly, or more frequently as needed. The survey should include the date of the survey; names of the owner and operator of the vessel; the name, business address, and telephone number of the vessel security officer; a description of the vessel that includes general layout of the ship; location of areas which have restricted areas; the open deck arrangement including the height of the deck above the ship; emergency and standby equipment available to maintain essential services; number of ships crew.

c. Standard Operating Procedures. Any standard operating procedures related to security should be included in the plan. These may include reporting procedures, watchstanding instructions, basic relief schedules, etc.

d. Alarms. Alarms, when used, should activate an audible or visual alarm when an intrusion is detected. The alarm should sound in a place which is continuously staffed by personnel with security responsibilities.

e. Lighting. While in port, at anchor, or underway the ship's deck and overside should be illuminated in periods of darkness and restricted visibility, but not so as to interfere with required navigation lights and safe navigation.

f. Communications. Communications should specify the kind of communications to use for a breach of security, an unlawful act or other emergency.

(1) Security personnel of the vessel should be provided a means of continuous communications, such as radio, telephone, or intercom, that enables them to communicate with the vessel security officer, the navigational bridge, communications center, or security personnel shoreside from their duty stations.

(2) Communications should be established with each terminal at which the vessel docks immediately after mooring.

(3) A distress signal peculiar to security, indicating a security alert, should be established.

g. Screening. When screening is conducted, it may be done manually, electronically, or by an equivalent means acceptable to the NMC. Screening systems should be capable of detecting prohibited weapons, incendiaries, and explosives in accordance with the Vessel Security Plan.

(1) No person refusing to submit to a security screening at a point of access should board the vessel.

(2) Each person denied entry for refusing to submit to a security screening should be identified and reported to appropriate authorities.

(3) Security equipment should be kept in good working condition and checked monthly. Records of checks should be maintained for at least 30 days after the date of the check.

(4) Procedures should be in place to ensure any defective or missing security equipment is reported immediately to the terminal security officer.

h. Baggage. Each piece of baggage should be marked, labeled or tagged, or otherwise identified as belonging to a particular passenger. During medium and high threat periods, it should be compared against the official passenger list of the vessel prior to being loaded aboard the vessel. No unidentified baggage should be permitted aboard the vessel.

i. Identification. Each passenger vessel operator should establish a system of identification and control of personnel for the vessel. The plan should cover the following procedures for:

(1) Identifying each category of persons authorized to be aboard the vessel and each person authorized access to a restricted area aboard the vessel;

(2) Issuing an identification card to each member of the crew or other employee of the vessel (permanent identification cards should contain the cardholder's name, age, height, weight, eye color, expiration date, name of the company that employs the cardholder and an unique number);

(3) Providing a temporary identification card to each contractor, vendor, and other visitor authorized access to a restricted area; and

(4) Identifying each passenger authorized to board the vessel by comparison against the official passenger list.

j. Designated Restricted Areas. Designated restricted areas should be outlined in the security plan. Restricted areas should be appropriately secured with access limited to authorized personnel. Each restricted area should be secured and conspicuously marked stating that the area has restricted access. Passenger vessels should designate the following areas as restricted areas:

(1) The navigational bridge;

(2) The communications center or radio room

(3) The engine room; and

(4) Any other areas as determined by the operator, to which access must be restricted to maintain the security of the vessel.

k. Coordination. The Vessel Security Plan should outline all coordination plans and procedures established with the operator of each passenger terminal. The vessel need not duplicate any security provisions fulfilled by the terminal. All responsibilities should be clearly outlined in the plan stating who is responsible for which actions on a port by port basis. Copies of agreements should be contained in the security plan.

l. Threat levels. There are three required levels, low, medium, and high. The Terminal Security Plan shall include what is required and what actions must be taken at each threat level. As a minimum, the following measures should be included:

(1) Low threat level.

—Restricted areas should be included as part of the normal watch routine.

—Baggage, cargo and stores should be randomly screened.

—Temporary or permanent barriers to maintain segregation between cleared and passengers and baggage should be utilized.

—Each piece of baggage should be marked, or tagged, or otherwise identified as belonging to a particular passenger.

(2) Medium threat level.

—The frequency of security rounds should be double that of the normal watch routine.

—Fifty percent of all baggage, cargo and stores should be screened.

—All passengers and carry-on items should be screened.

—Temporary or permanent barriers to maintain segregation between cleared and uncleared passengers and baggage should be utilized.

—Passengers 18 years of age or older should have a valid ticket and a valid photo identification document, such as a driver's license, passport, or armed forces identification card to board the vessel.

—Baggage should be compared against the official passenger list of the vessel prior to being loaded aboard the vessel.

(3) High threat level.

—Restricted areas should have intrusion detection systems that activate an audible or visual alarm or guards should be posted outside.

—All baggage, cargo and stores should be screened.

—All passengers and carry-on items should be screened.

—Each entering passenger should be compared to official passenger list prior to being allowed to board the vessel.

—Baggage should be compared against the official passenger list of the vessel prior to being loaded aboard the vessel.

n. Amendments. Amendments to the security plan must be included in the security plan. All amendments must bear the notation "Examined by the Coast Guard COTP (port name)" and the date of examination.

K. BILATERAL AGREEMENTS

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1. Counterterrorism

a. U.S.-South Africa Declaration on Mutual Anti-Crime Prevention, July 23, 1996 [1]

The Government of the United States of America and the Government of the Republic of South Africa,

Recognizing the impact of crime on democracy, stability, and human rights;

Aware that organized criminal elements are attracted to open, free societies with highly developed infrastructures;

Convinced that the illicit use and trafficking in drugs constitute a problem which affects the communities of both countries;

Realizing that money laundering, corruption, and related international criminal activities undermine democratic societies;

Believing that the international nature of most organized criminal activity necessitates that governments coordinate their law enforcement efforts;

Alert to the need for worldwide cooperation in combating international terrorism;

Mindful of the South African Government's National Crime Prevention Strategy of May 1996; and

Observing the recommendations of the March 1996 document of the South African Department of Safety and Security, entitled "Requests for International Assistance;"

Agree on the desirability, and indeed the necessity of mutual cooperation in combating international crime, including international terrorism.

Such cooperation may include but need not be limited to the following:

—assignment of representatives of the U.S. Drug Enforcement Administration to the U.S. Embassy in Pretoria to coordinate intelligence, training, and possible joint operations in combating transnational drug trafficking;

—provision for training and support for drug demand reduction and preventive education outreach;

—establishment of an FBI Legal Attache office in Pretoria to liaise with host country law enforcement organizations in support of law enforcement activities including, but not limited to, the exchange of intelligence information and investigation of international terrorism, financial/computer crimes, kidnappings and other transnational crimes, as well as to facilitate the location, arrest, and extradition of international fugitives within the FBI's jurisdiction;

—development by South Africa of a police training program to enhance professional capabilities in fighting organized crime,

[1] Source: USIA, 1996.

financial crimes, and alien smuggling, which may include specialized courses offered by U.S. law enforcement training programs such as ICITAP (International Criminal Investigative Training Assistance Program);

—inclusion of South African participants in U.S.-administered courses for professionals assigned to the fields of Customs and Immigration, narcotics interdiction, VIP protection, and financial crimes;

—promotion of exchange visits by teams of law enforcement officials ranging from working-level police to public defenders, prosecutors, and judges, up to officials at the ministerial level; and

—pursuit of other exchanges of information, training programs, and international cooperation as may be mutually desirable.

The United States and South Africa are convinced that their mutual cooperation in fighting the scourges of organized crime, drug trafficking, and international terrorism can result in a tangible benefit to their mutual societies, the surrounding regions, and the world.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF
THE REPUBLIC OF SOUTH AFRICA:

Washington, July 23, 1996

b. Counterterrorism Cooperation Accord between the Government of the United States of America and the Government of Israel [1]

The Government of the United States of America and the Government of the State of Israel ("the Parties"):

Unequivocally condemning all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed and whatever the motivation, in particular the recent heinous acts perpetrated against civilians in Israel;

Recalling the declaration of the participants in the historic Middle East Summit of the Peacemakers on March 13, 1996 that acts of terror are "alien to the moral and spiritual values shared by the peoples of the region" and urging all governments to join in condemning and opposing such acts;

Convinced that the suppression of acts of international terrorism, including those in which States are directly or indirectly involved, is an essential element for the maintenance of international peace and security;

Calling upon all states to renounce terrorism and to deny financial support, the use of their territory, the provision of arms and equipment, or any other means of support to terrorist organizations;

Convinced that those responsible for acts of international terrorism must be brought to justice through prosecution, extradition, or other legal mechanisms;

Sharing the view that international cooperation is an essential factor in halting the scourge of international terrorism and that states that support terrorism should be subject to sanctions;

Recalling their long-standing and fruitful cooperation on this and other topics of mutual security concern;

Resolved to strengthen their own cooperation in combatting international terrorism and in encouraging and assisting other states to join in this effort;

Have agreed as follows:

ARTICLE 1

SPHERES OF COOPERATION

1. With a view to enhancing their capabilities to deter, prevent, respond to and investigate international terrorist acts or threats of international terrorist acts against the United States or Israel, and to enlist the cooperation of others in combatting international terrorism, the Parties agree to share expertise and otherwise assist each other in the following spheres, among others:

[1] Source: U.S. Department of State, April 30, 1996

1) sharing of information and analyses regarding terrorists and terrorist organizations;
2) training;
3) exchange of experts;
4) exchange of experience in dealing with terrorist incidents, including crisis management;
5) exchange of information regarding terrorism-related investigations;
6) exchange of information on transfers of funds to organizations involved in international terrorism;
7) extradition, prosecution and other legal mechanisms;
8) research and development;
9) consulting closely on counterterrorism policy, including regional and global counterterrorism initiatives; and
10) enhancing the counterterrorism capabilities of others.

2. This agreement is intended to supplement existing agreements and arrangements between the Parties to address international terrorism. Nothing in this agreement shall be construed as derogating from the provisions of such agreements or arrangements.

ARTICLE 2

ESTABLISHMENT OF JOINT COUNTERTERRORISM GROUP

1. In order to strengthen further their cooperation on counterterrorism the Parties hereby establish the United States-Israel Joint Counterterrorism Group (JCG). The JCG will serve as a forum for regular consultations and development and facilitation of programs of counterterrorism cooperation in the spheres listed in Article 1 as well as on other mutually agreed counterterrorism topics.

2. The JCG will be composed of representatives from each Party, including as appropriate representatives from the various relevant agencies and departments of each Party that work on counterterrorism issues. The JCG will be co-chaired by senior counterterrorism officials of each Party.

3. The JCG will normally meet annually, alternately in the United States and Israel. In addition, special meetings of the JCG may be held to deal with particular issues or at the request of either Party. At the request of the JCG, experts of the Parties may meet and be in direct communication at any other time to assist in fulfilling the purposes of this agreement.

4. The JCG may from time to time enter into written understandings or implementing arrangements setting forth specific activities to be conducted under this agreement.

5. Between meetings of the JCG, participants will maintain contacts with their counterparts as required to carry out the purposes of this agreement.

ARTICLE 3

SECURITY OF INFORMATION

To the extent that any items, plans, specifications or information furnished in connection with the implementation of this agreement are classified by either Party for security purposes, the General Se-

curity of Information Agreement dated 10 December 1982 between the Parties and that Agreement's Industrial Security Annex, dated 3 March 1983, shall apply, unless the Parties agree upon alternative arrangements for protecting the material from unauthorized disclosures.

ARTICLE 4

GENERAL PROVISION

All undertakings of the Parties under this agreement are to be carried out in accordance with their national laws, obligations and policies, and are subject to the availability of appropriated funds, resources and personnel.

ARTICLE 5

INTERPRETATION AND AMENDMENT

1. All questions or disputes related to the interpretation or implementation of this agreement shall be settled exclusively through the diplomatic channel to the mutual satisfaction of the Parties.

2. Either Party may, at any time, request revision of this agreement by giving the other Party written notice. Each Party should be prepared to discuss the proposal within 90 days thereafter.

ARTICLE 6

ENTRY INTO FORCE AND DURATION

This agreement will enter into force on the date of the second of the diplomatic notes by which the two Parties notify each other of the completion of any necessary internal procedures for entry into force of the agreement. It will remain in force until 6 months after either Party provides written notice to the other through the diplomatic channel of its intention to terminate the agreement.

DONE at Washington, D.C., in duplicate, in English and Hebrew, both texts being equally authentic, this 30th day of April, 1996, corresponding to the 11th day of Iyar, 5756.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF
THE STATE OF ISRAEL:

2. Aviation Security

a. Sample Open Skies Agreement

The Government of the United States of America and the Government of the Republic of Korea (hereinafter, "the Parties") ;

Desiring to promote an international aviation system based on competition among airlines in the marketplace with minimum government interference and regulation;

Desiring to facilitate the expansion of international air transport opportunities;

Desiring to make it possible for airlines to offer the traveling and shipping public a variety of service options at the lowest prices that are not discriminatory and do not represent abuse of a dominant position, and wishing to encourage individual airlines to develop and implement innovative and competitive prices;

Desiring to ensure the highest degree of safety and security in international air transport and reaffirming their grave concern about acts or threats against the security of aircraft, which jeopardize the safety of persons or property, adversely affect the operation of air transportation, and undermine public confidence in the safety of civil aviation; and

Being Parties to the Convention on International Civil Aviation, opened for signature at Chicago on December 7, 1944;

Have agreed as follows:

Article 1

Definitions

For the purposes of this Agreement, unless otherwise stated, the term:

1. "Aeronautical authorities means, in the case of the United States, the Department of Transportation, or its successor, and in the case of the Republic of Korea, the Ministry of Construction and Transportation and any person or agency authorized to perform the functions exercised by the said Ministry of Construction and Transportation;

2. "Agreement" means this Agreement, its Annexes, and any amendments thereto;

3. "Air transportation" means the public carriage by aircraft of passengers, baggage, cargo, and mail, separately or in combination, for remuneration or hire;

4. "Convention" means the Convention on International Civil Aviation, opened for signature at Chicago on December 7, 1944, and includes:

   a. any amendment that has entered into force under Article 94 (a) of the Convention and has been ratified by both Parties, and

   b. any Annex or any amendment thereto adopted under Article 90 of the Convention, insofar as such Annex or amendment is at any given time effective for both Parties;

5. "Designated airline" means an airline designated and authorized in accordance with Article 3 of this Agreement;

6. "Full cost" means the cost of providing service plus a reasonable charge for administrative overhead;

7. "International air transportation" means air transportation that passes through the airspace over the territory of more than one State;

8. "Price" means any fare, rate or charge for the carriage of passengers (and their baggage) and/or cargo (excluding mail) in air transportation charged by airlines, including their agents, and the conditions governing the availability of such fare, rate or charge;

9. "Stop for non-traffic purposes" means a landing for any purpose other than taking on or discharging passengers, baggage, cargo and/or mail in air transportation;

10. "Territory" means the land areas under the sovereignty, jurisdiction, protection, or trusteeship of a Party, and the territorial waters adjacent thereto; and

11. "User charge" means a charge imposed on airlines for the provision of airport, air navigation, or aviation security facilities or services including related services and facilities.

Article 2

Grant of Rights

1. Each Party grants to the other Party the following rights for the conduct of international air transportation by the airlines of the other Party:

   a. the right to fly across its territory without landing;

   b. the right to make stops in its territory for non-traffic purposes; and

   c. the rights otherwise specified in this Agreement.

2. Nothing in this Article shall be deemed to confer on the airline or airlines of one Party the rights to take on board, in the territory of the other Party, passengers, their baggage, cargo, or mail carried for compensation and destined for another point in the territory of that other Party.

Article 3

Designation and Authorization

1. Each Party shall have the right to designate as many airlines as it wishes to conduct international air transportation in accordance with this Agreement and to withdraw or alter such designations. Such designations shall be transmitted to the other Party in writing through diplomatic channels, and shall identify whether the airline is authorized to conduct the type of air transportation specified in Annex I or in Annex II or both.

2. On receipt of such a designation, and of applications from the designated airline, in the form and manner prescribed for operating authorizations and technical permissions, the other Party shall grant appropriate authorizations and permissions without any undue delay, provided:

   a. substantial ownership and effective control of that airline are vested in the Party designating the airline, nationals of that Party, or both;

   b. the designated airline is qualified to meet the conditions prescribed under the laws and regulations normally applied to the operation of international air transportation by the Party considering the application or applications; and

   c. the Party designating the airline is maintaining and administering the standards set forth in Article 6 (Safety) and Article 7 (Aviation Security).

Article 4

Revocation of Authorization

1. Either Party may revoke, suspend or limit the operating authorizations or technical permissions of an airline designated by the other Party where:

   a. substantial ownership and effective control of that airline are not vested in the other Party, the Party's nationals, or both;

b. that airline has failed to comply with the laws and regulations referred to in Article 5 (Application of Laws) of this Agreement; or

c. the other Party is not maintaining and administering the standards as set forth in Article 6 (Safety).

2. Unless immediate action is essential to prevent further noncompliance with subparagraphs 1b or 1c of this Article, the rights established by this Article shall be exercised only after consultation with the other Party.

3. This Article does not limit the rights of either Party to withhold, revoke, limit or impose conditions on the operating authorization or technical permission of an airline or airlines of the other Party in accordance with the provisions of Article 7 (Aviation Security).

Article 5

Application of Laws

1. While entering, within, or leaving the territory of one Party, its laws and regulations relating to the operation and navigation of aircraft shall be complied with by the other Party's airlines.

2. While entering, within, or leaving the territory of one Party, its laws and regulations relating to the admission to or departure from its territory of passengers, crew or cargo on aircraft (including regulations relating to entry, clearance, aviation security, immigration, passports, customs and quarantine or, in the case of mail, postal regulations) shall be complied with by, or on behalf of, such passengers, crew or cargo of the other Party's airlines.

Article 6

Safety

1. Each Party shall recognize as valid, for the purpose of operating the air transportation provided for in this Agreement, certificates of airworthiness, certificates of competency, and licenses issued or validated by the other Party and still in force, provided that the requirements for such certificates or licenses at least equal the minimum standards that may be established pursuant to the Convention. Each Party may, however, refuse to recognize as valid for the purpose of flight above its own territory, certificates of competency and licenses granted to or validated for its own nationals by the other Party.

2. Either Party may request consultations concerning the safety standards maintained by the other Party relating to aeronautical facilities, aircrews, aircraft, and operation of the designated airlines. If, following such consultations, one Party finds that the other Party does not effectively maintain and administer safety standards and requirements in these areas that at least equal the minimum standards that may be established pursuant to the Convention, the other Party shall be notified of such findings and the steps considered necessary to conform with these minimum standards, and the other Party shall take appropriate corrective action. Each Party reserves the right to withhold, revoke, or limit the operating authorization or technical permission of an airline or airlines designated by the other Party in the event the other Party does not take such appropriate corrective action within a reasonable time.

Article 7

Aviation Security

1. In accordance with their rights and obligations under international law, the Parties reaffirm that their obligation to each other to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement. Without limiting the generality of their rights and obligations under international law, the Parties shall in particular act in conformity with the provisions of the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on September 14, 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970, and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on September 23, 1971, and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal on February 24, 1988.

2. The Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, of their passengers and crew, and of airports and air navigation facilities, and to address any other threat to the security of civil air navigation.

3. The Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention; they shall require that operators of aircraft of their registry, operators of aircraft who have their principal place of business or permanent residence in their territory, and the operators of airports in their territory act in conformity with such aviation security provisions.

4. Each Party agrees to observe the security provisions required by the other Party for entry into, for departure from, and while within the territory of that other Party and to take adequate measures to protect aircraft and to inspect passengers, crew, and their baggage and carry-on items, as well as cargo and aircraft stores, prior to and during boarding or loading. Each Party shall also give positive consideration to any request from the other Party for special security measures to meet a particular threat.

5. When an incident or threat of an incident of unlawful seizure of aircraft or other unlawful acts against the safety of passengers, crew, aircraft, airports or air navigation facilities occurs, the Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat.

6. When a Party has reasonable grounds to believe that the other Party has departed from the aviation security provisions of this Article, the aeronautical authorities of that Party may request immediate consultations with the aeronautical authorities of the other Party. Failure to reach a satisfactory agreement within 15 days from the date of such request shall constitute grounds to withhold, revoke, limit, or impose conditions on the operating authorization and technical permissions of an airline or airlines of that Party. When required by an emergency, a Party may take interim action prior to the expiry of 15 days.

Article 8

Commercial Opportunities

1. The airlines of each Party shall have the right to establish offices in the territory of the other Party for the promotion and sale of air transportation.

2. The designated airlines of each Party shall be entitled, in accordance with the laws and regulations of the other Party relating to entry, residence, and employment, to bring in and maintain in the territory of the other Party managerial, sales, technical, operational; and other specialist staff required for the provision of air transportation.

3. Each designated airline shall have the right to perform its own ground-handling in the territory of the other Party ("self-handling") and shall have the right to perform such services on behalf of other airlines of the Parties or of third countries[1], or at its option, select among competing agents for such services in whole or in part. The rights shall be subject only to physical constraints resulting from considerations of airport safety. Where such considerations preclude self-handling, ground services shall be available on an equal basis to all airlines; charges shall be based on the costs of services provided; and such services shall be comparable to the kind and quality of services as if self-handling were possible.

4. Any airline of each Party may engage in the sale of air transportation in the territory of the other Party directly and, at the airline's discretion, through its agents, except as may be specifically provided by the charter regulations of the country in which the charter originates that relate to the protection of passenger funds, and passenger cancellation and refund rights. Each airline shall have the right to sell such transportation, and any person shall be free to purchase such transportation, in the currency of that territory or in freely convertible currencies.

5. Each airline shall have the right to convert and remit to its country, on demand, local revenues in excess of sums locally disbursed. Conversion and remittance shall be permitted promptly without restrictions or taxation in respect thereof at the rate of exchange applicable to current transactions and remittance on the date the carrier makes the initial application for remittance.

6. The airlines of each Party shall be permitted to pay for local expenses, including purchases of fuel, in the territory of the other Party in local currency. At their discretion, the airlines of each Party may pay for such expenses in the territory of the other Party in freely convertible currencies according to local currency regulation.

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1) The Governments of both Parties recognize that there may be limitations imposed by local authorities that restrict the rights of designated airline(s) to perform some third-party ground-handling services.

7. In operating or holding out the authorized services on the agreed routes, any designated airline of one Party may enter into cooperative marketing arrangements such as blocked-space, code-sharing or leasing arrangements, with

a) an airline or airlines of either Party; and

b) an airline or airlines of a third country, provided that such third country authorizes or allows comparable arrangements between the airlines of the other Party and other airlines on services to, from and via such third country.

provided that all airlines in such arrangements 1) hold the appropriate authority and 2) meet the requirements normally applied to such arrangements.

8. Notwithstanding any other provision of this Agreement, airlines and indirect providers of cargo transportation of both Parties shall be permitted, without restriction, to employ in connection with international air transportation any surface transportation for cargo to or from any points in the territories of the Parties or in third countries, including transport to and from all airports with customs facilities, and including, where applicable, the right to transport cargo in bond under applicable laws and regulations. Such cargo, whether moving by surface or by air, shall have access to airport customs processing and facilities. Airlines may elect to perform their own surface transportation or to provide it through arrangements with other surface carriers, including surface transportation operated by other airlines and indirect providers of cargo air transportation. Such intermodal cargo services may be offered at a single, through price for the air and surface transportation combined, provided that shippers are not misled as to the facts concerning such transportation.

Article 9

Customs Duties and Charges

1. On arriving in the territory of one Party, aircraft operated in international air transportation by the designated airlines of the other Party, their regular equipment, ground equipment, fuel, lubricants, consumable technical supplies, spare parts (including engines), aircraft stores (including but not limited to such items of food, beverages and liquor, tobacco and other products destined for sale to or use by passengers in limited quantities during flight), and other items intended for or used solely in connection with the operation or servicing of aircraft engaged in international air transportation shall be exempt, on the basis of reciprocity, from all import restrictions, property taxes and capital levies, customs duties, excise taxes, and similar fees and charges that are (1) imposed by the national authorities, and (2) not based on the cost of services, provided that such equipment and supplies remain on board the aircraft.

2. There shall also be exempt, on the basis of reciprocity, from the taxes, levies, duties, fees and charges referred to in paragraph 1 of this Article, with the exception of charges based on the cost of the service provided:

   a. aircraft stores introduced into or supplied in the territory of a Party and taken on board, within reasonable limits, for use on outbound aircraft of an airline of the other Party engaged in international air transportation, even when these stores are to be used on a part of the journey performed over the territory of the Party in which they are taken on board;

   b. ground equipment and spare parts (including engines) introduced into the territory of a Party for the servicing, maintenance, or repair of aircraft of an airline of the other Party used in international air transportation;

   c. fuel, lubricants and consumable technical supplies introduced into or supplied in the territory of a Party for use in an aircraft of an airline of the other Party engaged in international air transportation, even when these supplies are to be used on a part of the journey performed over the territory of the Party in which they are taken on board; and

d. promotional and advertising materials introduced into or supplied in the territory of one Party and taken on board, within reasonable limits, for use on outbound aircraft of an airline of the other Party engaged in international air transportation, even when these stores are to be used on a part of the journey performed over the territory of the Party in which they are taken on board.

3. Equipment and supplies referred to in paragraphs 1 and 2 of this Article may be required to be kept under the supervision or control of the appropriate authorities.

4. The exemptions provided by this Article shall also be available where the designated airlines of one Party have contracted with another airline, which similarly enjoys such exemptions from the other Party, for the loan or transfer in the territory of the other Party of the items specified in paragraphs 1 and 2 of this Article.

Article 10

User Charges

1. User charges that may be imposed by the competent charging authorities or bodies of each Party on the airlines of the other Party shall be just, reasonable, not unjustly discriminatory, and equitably apportioned among categories of users. In any event, any such user charges shall be assessed on the airlines of the other Party on terms not less favorable than the most favorable terms available to any other airline at the time the charges are assessed.

2. User charges imposed on the airlines of the other Party may reflect, but shall not exceed, the full cost to the competent charging authorities or bodies of providing the appropriate airport, airport environmental, air navigation, and aviation security facilities and services at the airport or within the airport system. Such full cost may include a reasonable return on assets, after depreciation. Facilities and services for which charges are made shall be provided on an efficient and economic basis.

3. Each Party shall encourage consultations between the competent charging authorities or bodies in its territory and the airlines using the services and facilities, and shall encourage the competent charging authorities or bodies and the airlines to exchange such information as may be necessary to permit an accurate review of the reasonableness of the charges in accordance with the principles of paragraphs (1) and (2) of this Article. Each Party shall encourage the competent charging authorities to provide users with reasonable notice of any proposal for changes in user charges to enable users to express their views before changes are made.

4. Neither Party shall be held, in dispute resolution procedures pursuant to Article 14, to be in breach of a provision of this Article, unless (i) it fails to undertake a review of the charge or practice that is the subject of complaint by the other Party within a reasonable amount of time; or (ii) following such a review it fails to take all steps within its power to remedy any charge or practice that is inconsistent with this Article.

Article 11

Fair Competition

1. Each Party shall allow a fair and equal opportunity for the designated airlines of both Parties to compete in providing the international air transportation governed by this Agreement.

2. Each Party shall allow each designated airline to determine the frequency and capacity of the international air transportation it offers based upon commercial considerations in the marketplace. Consistent with this right, neither Party shall unilaterally limit the volume of traffic, frequency or regularity of service, or the aircraft type or types operated by the designated airlines of the other Party, except as may be required for customs, technical, operational, or environmental reasons under uniform conditions consistent with Article 15 of the Convention.

3. Neither Party shall impose on the other Party's designated airlines a first-refusal requirement, uplift ratio, no-objection fee, or any other requirement with respect to capacity, frequency or traffic that would be inconsistent with the purposes of this Agreement.

4. Neither Party shall require the filing of schedules, programs for charter flights, or operational plans by airlines of the other Party for approval, except as may be required on a non-discriminatory basis to enforce the uniform conditions foreseen by paragraph 2 of this Article or as may be specifically authorized in an Annex to this Agreement. If a Party requires filings for information purposes, it shall minimize the administrative burdens of filing requirements and procedures on air transportation intermediaries and on designated airlines of the other Party.

Article 12

Pricing

1. Each Party shall allow prices for air transportation to be established by each designated airline based upon commercial considerations in the marketplace. Intervention by the Parties shall be limited to:

   a. prevention of unreasonably discriminatory prices or practices;

   b. protection of consumers from prices that are unreasonably high or restrictive due to the abuse of a dominant position; and

   c. protection of airlines from prices that are artificially low due to direct or indirect governmental subsidy or support.

2. Each Party may require notification to or filing with its aeronautical authorities of prices to be charged to or from its territory by airlines of the other Party. Notification or filing by the airlines of both Parties may be required no more than 30 days before the proposed date of effectiveness. In individual cases, notification or filing may be permitted on shorter notice than normally required. Neither Party shall require the notification or filing by airlines of the other Party of prices charged by charterers to the public, except as may be required on a non-discriminatory basis for information purposes.

3. Neither Party shall take unilateral action to prevent the inauguration or continuation of a price proposed to be charged or charged by (a) an airline of either Party for international air transportation between the territories of the Parties, or (b) an airline of one Party for international air transportation between the territory of the other Party and any other country, including in both cases transportation on an interline or intraline basis. If either Party believes that any such price is inconsistent with the considerations set forth in paragraph (1) of this Article, it shall request consultations and notify the other Party of the reasons for its dissatisfaction as soon as possible. These consultations shall be held not later than 30 days after receipt of the request and the Parties shall cooperate in securing information necessary for reasoned resolution of the issue. If the Parties reach agreement with respect to a price for which a notice of dissatisfaction has been given, each Party shall use its best efforts to put that agreement into effect. Without such mutual agreement, the price shall go into effect or continue in effect.

Article 13

Consultations

Either Party may, at any time, request consultations relating to this Agreement. Such consultations shall begin at the earliest possible date, but not later than 60 days from the date the other Party receives the request unless otherwise agreed.

Article 14

Settlement of Disputes

1. Any dispute arising under this Agreement, except those that may arise under paragraph 3 of Article 12 (Pricing), that is not resolved by a first round of formal consultations may be referred by agreement of the Parties for decision to some person or body. If the Parties do not so agree, the dispute shall, at the request of either Party, be submitted to arbitration in accordance with the procedures set forth below.

2. Arbitration shall be by a tribunal of three arbitrators to be constituted as follows:

   a. Within 30 days after the receipt of a request for arbitration, each Party shall name one arbitrator. Within 60 days after these two arbitrators have been named, they shall by agreement appoint a third arbitrator, who shall act as President of the arbitral tribunal;

   b. If either Party fails to name an arbitrator, or if the third arbitrator is not appointed in accordance with subparagraph a of this paragraph, either Party may request the President of the Council of the International Civil Aviation Organization to appoint the necessary arbitrator or arbitrators within 30 days. If the President of the Council is of the same nationality as one of the Parties, the most senior Vice President who is not disqualified on that ground shall make the appointment.

3. Except as otherwise agreed, the arbitral tribunal shall determine the limits of its jurisdiction in accordance with this Agreement and shall establish its own procedural rules. The tribunal, once formed, may recommend interim relief measures pending its final determination. At the direction of the tribunal or at the request of either of the Parties, a conference to determine the precise issues to be arbitrated and the specific procedures to be followed shall be held not later than 15 days after the tribunal is fully constituted.

4. Except as otherwise agreed or as directed by the tribunal, each Party shall submit a memorandum within 45 days of the time the tribunal is fully constituted. Replies shall be due 60 days later. The tribunal shall hold a hearing at the request of either Party or on its own initiative within 15 days after replies are due.

5. The tribunal shall attempt to render a written decision within 30 days after completion of the hearing or, if no hearing is held, after the date both replies are submitted. The decision of the majority of the tribunal shall prevail.

6. The Parties may submit requests for clarification of the decision within 15 days after it is rendered and any clarification given shall be issued within 15 days of such request.

7. Each Party shall, to the degree consistent with its national law, give full effect to any decision or award of the arbitral tribunal.

8. The expenses of the arbitral tribunal, including the fees and expenses of the arbitrators, shall be shared equally by the Parties. Any expenses incurred by the President of the Council of the International Civil Aviation Organization in connection with the procedures of paragraph 2.b. of this Article shall be considered to be part of the expenses of the arbitral tribunal.

Article 15

Termination

Either Party may, at any time, give notice in writing to the other Party of its decision to terminate this Agreement. Such notice shall be sent simultaneously to the International Civil Aviation Organization. This Agreement shall terminate at midnight (at the place of receipt of the notice to the other Party) immediately before the first anniversary of the date of receipt of the notice by the other Party, unless the notice is withdrawn by agreement of the Parties before the end of this period.

Article 16

Registration with ICAO

This Agreement and all amendments thereto shall be registered with the International Civil Aviation Organization.

Article 17

Entry into Force

1. This Agreement and its Annexes shall enter into force on the date of signature.
2. Upon entry into force, this Agreement shall supersede the following treaties:
   a. Air Transport Agreement between the Government of the Republic of Korea and the Government of the United States of America, signed at Washington on April 24, 1957(hereinafter referred to as "the 1957 Agreement");
   b. Amendment of the 1957 Agreement, concluded by Exchange of Notes at Washington on March 26, 1971;
   c. Exemption Agreement for the Introduction of Ground Equipment of Aircraft between the Government of the Republic of Korea and the Government of the United States of America, concluded by Exchange of Notes at Washington on March 26, 1971;
   d Memorandum of Understanding to Amend the 1957 Agreement, as amended on March 26, 1971, concluded by Exchange of Notes at Seoul on March 22, 1979:
   e. Agreement for the Inclusion of Civil Aviation Security Provisions in the 1957 Agreement, concluded by exchange of Notes at Seoul on September 15, 1988;
   f . Memorandum of Understanding to Supplement and Amend the 1957 Agreement, as amended, concluded by Exchange of Notes at Seoul on November 22, 1991."

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE AT [place], this [day] day of [month], [year] in duplicate, in the English and the Korean languages, each text being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA	FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA

ANNEX I

Scheduled Air Transportation

Section 1

Routes

Airlines of each Party designated under this Annex shall, in accordance with the terms of their designation, be entitled to perform scheduled international air transportation between points on the following routes[2]:

A.

Routes for the airline or airlines designated by the Government of the United States:

From points behind the United States via the United States and intermediate points to a point or points in the Republic of Korea and beyond.

B.

Routes for the airline or airlines designated by the Government of the Republic of Korea :

From points behind the Republic of Korea via the Republic of Korea and intermediate points to a point or points in the United States and beyond.

---

2). The provisions of Annex I shall not be construed to give U.S. designated airlines the right to operate air services to/from any point in the Republic of Korea from/to any point in the northern part of the Korean peninsula which is not under the administrative control of the Republic of Korea.

Section 2

Operational Flexibility

Each designated airline may, on any or all flights and at its option:

1. Operate flights in either or both directions;
2. Combine different flight numbers within one aircraft operation;
3. Serve behind, intermediate, and beyond points and points in the territories of the Parties on the routes in any combination and in any order;
4. Omit stops at any point or points;
5. Transfer traffic from any of its aircraft to any of its other aircraft at any point on the routes; and
6. Serve points behind any point in its territory with or without change of aircraft or flight number and may hold out and advertise such services to the public as through services;

without directional or geographic limitation and without loss of any right to carry traffic otherwise permissible under this Agreement; provided that the service serves a point in the territory of the Party designating the airline.

Section 3

Change of Gauge

On any segment or segments of the routes above, any designated airline may perform international air transportation without any limitation as to change, at any point on the route, in type or number of aircraft operated; provided that, in the outbound direction, the transportation beyond such point is a continuation of the transportation from the territory of the Party that has designated the airline and, in the inbound direction, the transportation to the territory of the Party that has designated the airline is a continuation of the transportation from beyond such point.

ANNEX II

Charter Air Transportation

Section 1

Airlines of each Party designated under this Annex shall, in accordance with the terms of their designation, have the right to carry international charter traffic of passengers (and their accompanying baggage) and/or cargo (including, but not limited to, freight forwarder, split, and combination (passenger/cargo) charters)[3]

Between any point or points in the territory of the Party that has designated the airline and any point or points in the territory of the other Party; and

Between any point or points in the territory of the other Party and any point or points in a third country or countries; provided that such service constitutes part of a continuous operation, with or without a change of aircraft, that includes service to the homeland for the purpose of carrying local traffic between the homeland and the territory of the other Party.

In the performance of services covered by this Annex, airlines of each Party designated under this Annex shall also have the right: (1) to make stopovers at any points whether within or outside of the territory of either Party; (2) to carry transit traffic through the other Party's territory; (3) to combine on the same aircraft traffic originating in one Party's territory, traffic originating in the other Party's territory, and traffic originating in third countries; and (4) to perform international air transportation without any limitation as to change, at any point on the route, in type or number of aircraft operated; provided that, in the outbound direction, the transportation beyond such point is a

3). The provisions of Annex II shall not be construed to give U.S. designated airlines the right to operate air services to/from any point in the Republic of Korea from/to any point in the northern part of the Korean peninsula which is not under the administrative control of the Republic of Korea.

continuation of the transportation from the territory of the Party that has designated the airline and in the inbound direction, the transportation to the territory of the Party that has designated the airline is a continuation of the transportation from beyond such point.

Each Party shall extend favorable consideration to applications by airlines of the other Party to carry traffic not covered by this Annex on the basis of comity and reciprocity.

Section 2

Any airline designated by either Party performing international charter air transportation originating in the territory of either Party, whether on a one-way or round-trip basis, shall have the option of complying with the charter laws, regulations, and rules either of its homeland or of the other Party. If a Party applies different rules, regulations, terms, conditions, or limitations to one or more of its airlines, or to airlines of different countries, each designated airline shall be subject to the least restrictive of such criteria.

However, nothing contained in the above paragraph shall limit the rights of either Party to require airlines designated under this Annex by either Party to adhere to requirements relating to the protection of passenger funds and passenger cancellation and refund rights.

Section 3

Except with respect to the consumer protection rules referred to in the preceding paragraph above, neither Party shall require an airline designated under this Annex by the other Party, in respect of the carriage of traffic from the territory of that other Party or of a third country on a one-way or round-trip basis, to submit more than a declaration of conformity with the applicable laws, regulations and rules referred to under section 2 of this Annex or of a waiver of these laws, regulations, or rules granted by the applicable aeronautical authorities.

ANNEX III

Principles of Non-Discrimination Within
and Competition among Computer Reservations Systems

Recognizing that Article 11 (Fair Competition) of this Agreement guarantees the airlines of both Parties "a fair and equal opportunity to compete,"

Considering that one of the most important aspects of the ability of an airline to compete is its ability to inform the public of its services in a fair and impartial manner, and that, therefore, the quality of information about airline services available to travel agents who directly distribute such information to the traveling public and the ability of an airline to offer those agents competitive computer reservations systems (CRSs) represent the foundation for an airline's competitive opportunities, and

Considering that it is equally necessary to ensure that the interests of the consumers of air transport products are protected from any misuse of such information and its misleading presentation and that airlines and travel agents have access to effectively competitive computer reservations systems:

1. The Parties agree that CRSs will have integrated primary displays for which:

   a. Information regarding international air services, including the construction of connections on those services, shall be edited and displayed based on non-discriminatory and objective criteria that are not influenced, directly or indirectly, by airline or market identity. Such criteria shall apply uniformly to all participating airlines.

   b. CRS data bases shall be as comprehensive as possible.

   c. CRS vendors shall not delete information submitted by participating airlines; such information shall be accurate and transparent; for example, code-shared and change-of-gauge flights and flights with stops should be clearly identified as having those characteristics.

d. All CRSs that are available to travel agents who directly distribute information about airline services to the traveling public in either Party's territory shall not only be obligated to, but shall also be entitled to, operate in conformance with the CRS rules that apply in the territory where the CRS is being operated.

e. Travel agents shall be allowed to use any of the secondary displays available through the CRS so long as the travel agent makes a specific request for that display.

2. A Party shall require that each CRS vendor operating in its territory allow all airlines willing to pay any applicable non-discriminatory fee to participate in its CRS. A Party shall require that all distribution facilities that a system vendor provides shall be offered on a non-discriminatory basis to participating airlines. A Party shall require that CRS vendors display, on a non-discriminatory, objective, carrier-neutral and market-neutral basis the international air services of participating airlines in all markets in which they wish to sell those services. Upon request, a CRS vendor shall disclose details of its data base update and storage procedures, its criteria for editing and ranking information, the weight given to such criteria, and the criteria used for selection of connect points and inclusion of connecting flights.

3. CRS vendors operating in the territory of one shall be entitled to bring in, maintain, and make freely available their CRSs to travel agencies or travel companies whose principal business is the distribution of travel-related products in the territory of the other Party if the CRS complies with these principles.

4. Neither Party shall, in its territory, impose or permit to be imposed on the CRS vendors of the other Party more stringent requirements with respect to access to and use of communication facilities, selection and use of technical CRS hardware and software, and the technical installation of CRS hardware, than those imposed on its own CRS vendors.

5. Neither Party shall, in its territory, impose or permit to be imposed on the CRS vendors of the other Party more restrictive requirements with respect to CRS displays (including edit and display parameters) operation, or sale than those imposed on its own CRS vendors.

6. CRSs in use in the territory of one Party that comply with these principles and other relevant nondiscriminatory regulatory, technical, and security standards shall be entitled to effective and unimpaired access in the territory of the other Party. One aspect of this is that a designated airline shall participate in such a system as fully in its homeland territory as it does in any system offered to travel agents in the territory of the other Party. Owners/operators of CRSs of one Party shall have the same opportunity to own/operate CRSs that conform to these principles within the territory of the other Party as do owners/operators of that Party. Each Party shall ensure that its airlines and its CRS vendors do not discriminate against travel agents in their homeland territory because of their use or possession of a CRS also operated in the territory of the other Party.

b. Sample Aviation Security Agreements

(1) Bahrain (November 15, 1992)

TREATIES AND OTHER INTERNATIONAL ACTS SERIES 11912

AVIATION

Security

Agreement Between the
UNITED STATES OF AMERICA
and BAHRAIN

Signed at Manama November 15, 1992

NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89–497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

"... the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence ... of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof."

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

BAHRAIN

Aviation: Security

Agreement signed at Manama November 15, 1992;
Entered into force November 15, 1992.

CIVIL AVIATION SECURITY AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE STATE OF BAHRAIN

The Government of the United States of America and the Government of the State of Bahrain, hereinafter (the Parties):

Having regard to our civil air transport relations, which are conducted on the basis of comity and reciprocity;

Reaffirming, that our obligation to protect, in our mutual relationship, the security of civil aviation against acts of unlawful interference is an integral part of our civil air obligations under international law;

Noting, that each Party has the right to withhold, revoke, limit or impose conditions on the operating authorization or technical permission of an airline or airlines designated by the other party as it deems appropriate to ensure the security of civil aviation;

Have agreed as follows:

ARTICLE 1

The Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of aircraft and other unlawful acts against the safety of passengers, crew, aircraft, airports and air navigation facilities and any other threat to aviation security.

ARTICLE II

The Parties shall act in conformity with the provisions of the Convention on Offenses and Certain other acts Committed On Board Aircraft, signed at Tokyo on September 14, 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970 and the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on September 23, 1971.[1]

[1] TIAS 6768, 7192, 7570; 20 UST 2941; 22 UST 1641; 24 UST 564.

ARTICLE III

The Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention on International Civil Aviation;[1] they shall require that operators of aircraft of their registry or operators who have their principal place of business or permanent residence in their territory and that operators of airports in their territory act in conformity with such aviation security provisions.

ARTICLE IV

Each Party agrees to observe the security provisions required by the other Party for entry into the territory of that other Party and to take adequate measures to protect aircraft and to inspect passengers, crew, their carry-on items as well as cargo and aircraft stores prior to and during boarding or loading. Each Party shall also give positive consideration to any request from the other party for special security measures to meet a particular threat.

ARTICLE V

When an incident or threat of an incident of unlawful seizure of aircraft or other unlawful acts against the safety of passengers, crew, aircraft, airports and air navigation facilities occurs, the Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.

ARTICLE VI

When a Party has reasonable grounds to believe that the other Party has departed from the provision of the agreement, that Party may request immediate consultations with the other Party.

[1] TIAS 1591, 6605, 6681; 61 Stat. 1180; 19 UST 7693; 20 UST 718.

ARTICLE VII

This agreement shall enter into force upon signature.

IN WITNESS WHEREOF, The undersigned being duly authorized by their respective Governments, have signed this Agreement.

DONE IN BAHRAIN, IN DUPLICATE, THIS FIFTEENTH DAY OF NOVEMBER 1992.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA	FOR THE GOVERNMENT OF THE STATE OF BAHRAIN.
David S. Robins Charge d'Affairs a,i, American Embassy, Manama	Ibrahim Abdulla Al-Hamer Asst. Undersecretary for Civil Aviation Affairs.

AIR TRANSPORT SERVICES

Security Provisions

Agreement Between the
UNITED STATES OF AMERICA
and the REPUBLIC OF KOREA

Amending the Agreement of
April 24, 1957, as Amended

Effected by Exchange of Notes
Signed at Seoul September 15, 1988

NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89–497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

". . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof."

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

REPUBLIC OF KOREA

Air Transport Services: Security Provisions

Agreement amending the agreement of April 24, 1957, as amended.
Effected by exchange of notes
Signed at Seoul September 15, 1988;
Entered into force September 15, 1988.

The American Ambassador to the Korean Minister of Foreign Affairs

EMBASSY OF THE
UNITED STATES OF AMERICA

Seoul, September 15, 1988

No. 303

Excellency:

I have the honor to refer to the consultations which took place in Washington, D.C. from June 2 to June 3, 1988 between the representatives of the two governments to discuss the issue of inclusion of Civil Aviation Security Provisions in the Air Transport Agreement between the Government of the United States of America and the Government of the Republic of Korea which was signed and entered into force on April 24, 1957.[1]

The Government of the United States of America proposes that the following "Article 11 BIS" shall be added after the existing "Article 11" of the above mentioned Agreement:

"Article 11 BIS

Aviation Security

(A) In accordance with their rights and obligations under international law, the contracting parties reaffirm that their obligation to protect, in their mutual relationship, the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement.

His Excellency
Kwang Soo Choi,
Minister of Foreign Affairs,
Republic of Korea

[1] TIAS 3807; 8 UST 549.

(B) The contracting parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of aircraft and other unlawful acts against the safety of passengers, crew, aircraft, airports and air navigation facilities and any other threat to aviation security.

(C) The contracting parties shall act in conformity with the provisions of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970 and the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation signed at Montreal on 23 September 1971.[1]

(D) The contracting parties shall, in their mutual relations, act in conformity with the aviation security standards and, so far as they are applied by them, the recommended practices established by the International Civil Aviation Organization, and designated as Annexes to the Convention on International Civil Aviation[2] and shall require that operators of aircraft of their registry, operators who have their principal place of business or permanent residence in their territory, and the operators of international airports in their territory act in conformity with such aviation security provisions. Each contracting party shall give advance information to the other contracting party of its intention to notify ICAO of any differences to the ICAO standards.

(E) Each contracting party agrees to observe the security provisions required by the other contracting party for entry into the territory of that other contracting party and to take adequate measures to protect aircraft and to inspect passengers, crew, their carry-on items as well as cargo and aircraft stores prior to and during boarding or loading. Each contracting party shall also give positive consideration to any request from the other contracting party for special security measures to meet a particular threat.

(F) When an incident or threat of an incident of unlawful seizure of aircraft or other unlawful acts against the safety of passengers, crew, aircraft, airports and air navigation facilities occurs, the contracting parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat thereof.

(G) When a contracting party has reasonable grounds to believe that the other contracting party has departed from the aviation security provisions of this Article, the aeronautical authorities of that contracting party may request immediate consultations with the aeronautical authorities of the other contracting party. Fail-

[1] TIAS 6768, 7192, 7570; 20 UST 2941; 22 UST 1641; 24 UST 564.
[2] TIAS 1591; 3 Bevans 944.

ure to reach a satisfactory agreement within 30 days from the date of such request will constitute grounds to withhold, revoke, limit or impose conditions on the operating authorization or technical permission of an airline or airlines of the other contracting party. Such action may be taken beforehand only if required to meet an immediate and extraordinary threat to the safety of passengers, crew or aircraft. Any action taken in accordance with this paragraph shall be discontinued upon compliance by the other contracting party with the provisions of this Article.''

If this proposal is acceptable to the Government of the Republic of Korea, I have further the honor to suggest that this Note and Your Excellency's Note in reply to that effect shall constitute an agreement between the two governments in this matter, which shall enter into force on the date of Your Excellency's reply and be considered as an integral part of the above mentioned Air Transport Agreement between the Government of the United States of America and the Government of the Republic of Korea.

Accept, Excellency, the renewed assurances of my highest consideration.

James R. Lilley

The Korean Minister of Foreign Affairs to the American Ambassador

MINISTRY OF FOREIGN AFFAIRS
REPUBLIC OF KOREA

Seoul, September 15, 1988

Excellency,

I have the honor to acknowledge the receipt of Your Excellency's Note of today's date which reads as follows:

[For text of the U.S. note, see pp. 2-4.]

I have further the honour to confirm on behalf of the government of the Republic of Korea that the above proposal is acceptable to the Government of the Republic of Korea and Your Excellency's Note and this Note in reply thereto shall constitute an agreement between the two governments, which shall enter into force from the date of this reply and be considered an integral part of the Air Transport Agreement between the Government of the Republic of Korea and the Government of the United States of America which was signed and entered into force on April 24, 1957.

Accept, Excellency, the renewed assurances of my highest consideration.

Kwang Soo Choi
Minister of Foreign Affairs

His Excellency
James R. Lilley
Ambassador of
the United States of America

c. Signed Open Skies Agreements, Not Entered into Force[1]

1. Aruba	Signed:	September 18, 1997
2. Belgium		September 5, 1995
3. Costa Rica		May 8, 1997
4. El Salvador		May 8, 1997
5. Germany		May 24, 1996
6. Guatemala		May 8, 1997
7. Honduras		May 8, 1997
8. Nicaragua		May 8, 1997
9. Panama		May 8, 1997
10. Taiwan[2]		March 18, 1998
11. Uzbekistan		February 27, 1998

[1] U.S., Department of State, Office of the Legal Advisor for Treaty Affairs.

[2] "On January 1, 1979, the United States recognized the Government of the People's Republic of China as the sole legal Government of China. The United States acknowledges the Chinese position that there is but one China and Taiwan is part of China. The United States does not recognized the 'Republic of China' as a state or government . . . . [This] agreement relationship . . . is administered on a nongovernmental basis by the American Institute in Taiwan, a nonprofit District of Columbia corporation, [and the Taipei Economic and Cultural Representative Office] and constitute neither recognition of the Taiwan authorities nor the continuation of any official relationship with Taiwan." U.S., Department of State, Office of the Legal Advisor, Treaties in Force: A List of Treaties and Other International Agreements of the United States in Force on January 1, 1997, August 1997, p. 315. The Taipei Economic and Cultural Representative Office was formerly the Coordination Council for North American Affairs.

d. Initialed Agreements

1. Chile	Initialed:	October 28, 1997
2. Korea		April 23, 1998
3. Netherlands Antilles		December 9, 1997
4. Romania		December 5, 1997

e. List of Open Skies Agreements [1]

Country	Date Signed	Entered into force	Citation
Austria	June 14,1995	Aug. 1, 1995	TIAS.
Brunei Darussalam	June 20, 1997	June 20, 1997	TIAS.
Czech Republic	Sept. 10, 1996	Sept. 10, 1996	TIAS.
Denmark	June 16, 1995	June 16, 1995	TIAS.
Finland	June 9, 1995	June 9, 1995	TIAS.
Iceland	June 14, 1995	Oct. 12, 1995	TIAS.
Jordan	Nov. 10, 1996	Nov. 10, 1996	TIAS.
Luxembourg	June 6, 1995	Jan. 9, 1998	TIAS.
Malaysia	June 21, 1997	June 21, 1997	TIAS.
Netherlands	Oct. 14, 1992	May 11, 1993	TIAS.
New Zealand	June 18, 1997	June 18, 1997	TIAS.
Nicaragua	May 8, 1997	Dec. 5, 1997	TIAS.
Norway	June 16 1995	June 16 1995	TIAS.
Singapore	April 8, 1997	April 8, 1997	TIAS.
Sweden	June 16, 1995	June 16, 1995	TIAS.
Switzerland	June 15, 1995	Sept. 27, 1996	TIAS.

[1] Recent aviation agreements that reduce commercial air restrictions are known as Open Skies agreements.

f. List of Aviation Agreements Signed, but Not Entered into Force [1]

1. Chile	Signed:	September 27, 1989
2. Dominican Republic		July 22, 1986
3. Ecuador		September 26, 1986
4. Egypt		May 27, 1991
5. Panama		January 12 and 13, 1994

[1] U.S., Department of State, Office of the Assistant Legal Advisor for Treaty Affairs.

g. List of Aviation Agreements in Force Containing A Security Article Based on Model Language

Country	Date Signed	Entered into force	Citation
Antigua and	Aug. 19, 1991		TIAS 11794.
Barbuda	Oct. 7, 1991	Oct. 7, 1991	TIAS 11794.
Aruba	Nov. 7, 1986	Aug. 17, 1987	TIAS.
Australia	Dec. 22, 1987	Dec. 22, 1987	TIAS 11922.
Austria	Mar. 16, 1989	June 2, 1989	TIAS 11256.
Bahrain	Nov. 15, 1992	Nov. 15, 1992	TIAS 11912.
Bangladesh	Nov. 23, 1992		TIAS 12160.
	Aug. 23, 1993	Aug. 23, 1993	TIAS 12160.
Belgium	Sept. 22, 1986		TIAS.
	Nov. 12, 1986	Nov. 12, 1986	TIAS.
Bolivia	June 28, 1988		TIAS. 11642.
	Aug. 23, 1988	Aug. 23, 1988	TIAS. 11642.
Brazil	Mar. 21, 1989	Jan. 13, 1992	TIAS 11780.
Bulgaria	Apr. 24, 1991	Apr. 24, 1991	TIAS 11984.
Canada	Feb. 24, 1995	Feb. 24, 1995	TIAS.
Cape Verde	Oct. 11, 1989	Oct. 11, 1989	TIAS 11705.
Czech Republic	June 29, 1987	June 29, 1987	TIAS 11162.
Gambia	Sept. 14, 1992		TIAS 11910.
	Sept. 15, 1992	Sept. 15, 1992	TIAS 11910.
Germany	Apr. 25, 1989	Aug. 6, 1992	TIAS 11942.
Greece	July 31, 1991	May 15, 1992	TIAS.
Grenada	Mar. 19, 1987		TIAS 11279.
	May 11, 1987	May 11, 1987	TIAS 11279.
Honduras	Aug. 5, 1991	Aug. 5, 1991	TIAS 11804.
Hungary	July 12, 1989	Feb. 8, 1990	TIAS 11260.
India	May 4, 1989	May 4, 1989	TIAS 11775.
Indonesia	Apr. 12, 1990		TIAS 11760.
	June 19, 1990	June 19, 1990	TIAS 11760.
Ireland	Jan. 25, 1988		TIAS 11692.
	Sept. 29, 1989	Sept. 29, 1989	TIAS 11692.
Israel	Dec. 16, 1986		TIAS 11524.
	Jan. 5, 1987	Jan. 5, 1987	TIAS 11524.
Italy	Oct. 25, 1988	Mar. 28, 1991	TIAS 11634.
Japan	Apr. 20, 1998	Apr. 20, 1998	TIAS.
Kuwait	Nov. 22, 1987		TIAS 12023.
	Jan. 11, 1988	July 5, 1988	TIAS 12023.
Luxembourg	Aug. 19, 1986	Aug. 3, 1988	TIAS 11249.
Malaysia	Nov. 11, 1990		TIAS 11796.
	Aug. 26, 1991	Aug. 26, 1991	TIAS 11796.
Mali	June 25, 1993	June 25, 1993	TIAS 12155.
Mexico	Sept. 23, 1988	Sept. 23, 1988	TIAS.
Netherlands	June 11, 1986	Feb. 2, 1987	TIAS 11365.
Nicaragua	Dec. 4, 1991		TIAS 11846.

Country	Date Signed	Entered into force	Citation
	Dec. 12, 1991	Dec. 12, 1991	TIAS 11846.
Oman	June 28, 1994		TIAS.
	June 30, 1994	June 30, 1994	TIAS.
Peru	Dec. 16, 1986	June 12, 1987	TIAS 11174.
Philippines	May 29, 1987		TIAS 11564.
	Jan. 13, 1988	Jan. 13, 1988	TIAS 11564.
Poland	Feb. 1, 1988	Oct. 11, 1988	TIAS.
Qatar	June 27, 1994	June 30, 1994	TIAS.
Romania	Mar. 19, 1990	Mar. 19, 1990	TIAS 11730.
Russian Fed	Jan. 14, 1994	Jan. 14, 1994	TIAS.
Saint Christopher	Aug. 11, 1987		TIAS 11545.
and Nevis	Nov. 30, 1987	Nov. 30, 1987	TIAS 11545.
Saudi Arabia	Oct. 2, 1993	Oct. 2, 1993	TIAS.
Senegal	Apr. 1, 1998	Apr. 1, 1998	TIAS.
Singapore	May 18, 1990		TIAS 11761.
	June 15, 1990	June 15, 1990	TIAS 11761.
South Africa	Aug. 19, 1991		TIAS 11788.
	Oct. 3, 1991		TIAS 11788.
	Oct. 11, 1991		TIAS 11788.
	Oct. 30, 1991	Oct. 30, 1991	TIAS 11788.
Spain	May 31, 1989	Sept. 26, 1990	TIAS 11672.
Switzerland	July 14, 1987	Feb. 9, 1993	TIAS 11552.
Taiwan [1]	May 8, 1986		TIAS.
	July 28, 1986	July 28, 1986	TIAS.
Trinidad and Tobago.	May 23, 1990	May 23, 1990	TIAS 11724.
Turkey	Nov. 7, 1990	Oct. 22, 1993	TIAS.
United Arab	Dec. 26, 1993		TIAS.
Emirates	Feb. 17, 1994	Feb. 17, 1994	TIAS.
United Kingdom	May 25, 1989	May 25, 1989	TIAS 11674.
Yugoslavia*	Jan. 15, 1987		TIAS 11547.
	July 6, 1987	Apr. 5, 1988	TIAS 11547.
Zambia	Feb. 16, 1988		TIAS 11573.
	Mar. 2, 1988	Mar. 28, 1988	TIAS 11573.

* For the successor States of Yugoslavia, inquire of the Treaty Office of the United States Department of State.

[1] "On January 1, 1979, the United States recognized the Government of the People's Republic of China as the sole legal Government of China. The United States acknowledges the Chinese position that there is but one China and Taiwan is part of China. The United States does not recognized the "Republic of China" as a state or government . . . . [This] agreement relationship . . . is administered on a nongovernmental basis by the American Institute in Taiwan, a nonprofit District of Columbia corporation, [and the Coordination Council for North American Affairs,] and constitute neither recognition of the Taiwan authorities nor the continuation of any official relationship with Taiwan." U.S., Department of State, Office of the Legal Advisor, Treaties in Force: A List of Treaties and Other International Agreements of the United States in Force on January 1, 1997, August 1997, p. 315. The Coordination Council for North American Affairs has since been renamed the Taipei Economic and Cultural Representative Office.

h. Model Aviation Security Article [1,2]

(1) In accordance with their rights and obligations under international law, the Parties reaffirm that their obligation to each other to protect the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement. Without limiting the generality of their rights and obligations under international law, the Parties shall in particular act in conformity with the provisions of the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on September 14, 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970, and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on September 23, 1971.

(2) The Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, of their passengers and crew, and of airports and air navigation facilities, and to address any other threat to the security of civil air navigation.

(3) The Parties shall, in their mutual relations, act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention; they shall require that operators of aircraft of their registry, operators of aircraft who have their principal place of business or permanent residence in their territory, and the operators of airports in their territory act in conformity with such aviation security provisions.

(4) Each Party agrees to observe the security provisions required by the other Party for entry into, for departure from, and while within the territory of that other Party and to take adequate measures to protect aircraft and to inspect passengers, crew, and their baggage and carry-on items, as well as cargo and aircraft stores, prior to and during boarding or loading. Each Party shall also give positive consideration to any request from the other Party for special security measures to meet a particular threat.

(5) When an incident or threat of an incident of unlawful seizure of aircraft or other unlawful acts against the safety of passengers, crew, aircraft, airports or air navigation facilities occurs, the Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat.

(6) When a Party has reasonable grounds to believe that the other Party has departed from the aviation security provisions of

[1] The United States uses a model aviation security article to protect civil aviation against unlawful acts of interference.

[2] U.S., Department of State, Office of the Assistant Legal Advisor for Economic and Business Affairs.

this Article, the aeronautical authorities of that Party may request immediate consultations with the aeronautical authorities of the other Party. Failure to reach a satisfactory agreement within 15 days from the date of such request shall constitute grounds to withhold, revoke, limit, or impose conditions on the operating authorization and technical permissions of an airline or airlines of that Party. When required by an emergency, a Party may take interim action prior to the expiry of 15 days.

3. Extradition Treaties

a. List of Agreements in Force

U.S. CODE, TITLE 18—CRIMES AND CRIMINAL PROCEDURE

PART II—CRIMINAL PROCEDURE

CHAPTER 209—EXTRADITION

Sec. 3181. Scope and limitation of chapter

The provisions of this chapter relating to the surrender of persons who have committed crimes in foreign countries shall continue in force only during the existence of any treaty of extradition with such foreign government.

(June 25, 1948, ch. 645, 62 Stat. 822.)

TREATIES OF EXTRADITION [1]

The United States currently has bilateral extradition treaties with the following countries:

Country	Date Signed	Entered into force	Citation
Albania	Mar. 1, 1933	Nov. 14, 1935	49 Stat. 3313.
Antigua and Barbuda.	June 3, 1996	July 1, 1999.	
Argentina	Jan. 21, 1972	Sept. 15, 1972	23 UST 3501.
Australia	May 14, 1974	May 8, 1976	27 UST 957.
	Sept. 4, 1990	Dec. 21, 1992.	
Austria	Jan. 8, 1998	Jan. 1, 2000.	
Bahamas	Mar. 9, 1990	Sept. 22, 1994	TIAS.
Barbados	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Belgium	Apr. 27, 1987	Sept. 1, 1997.	
Belize	June 8, 1972	Jan. 21, 1977	28 UST 227.
Bolivia	June 27, 1995	Nov. 21, 1996.	
Brazil	Jan. 13, 1961	Dec. 17, 1964	15 UST 2093
	June 18, 1962	Dec. 17, 1964	15 UST 2112.
Bulgaria	Mar. 19, 1924	June 24, 1924	43 Stat. 1886.
	June 8, 1934	Aug. 15, 1935	49 Stat. 3250.
Burma	Dec. 22, 1931	Nov. 1, 1941	47 Stat. 2122.
Canada	Dec. 3, 1971	Mar. 22, 1976	27 UST 983.
	June 28, July 9, 1974.	Mar. 22, 1976	27 UST 1017.
	Jan. 11, 1988	Nov. 26, 1991	TIAS.
Chile	Apr. 17, 1900	June 26, 1902	32 Stat. 1850.

[1] 18 U.S.C. § 3181; U.S., Department of State, Office of the Assistant Legal Advisor for Treaty Affairs.

Country	Date Signed	Entered into force	Citation
Colombia	Sept. 14, 1979	Mar. 4, 1982	TIAS.
Congo	Jan. 6, 1909	July 27, 1911	37 Stat. 1526.
	Jan. 15, 1929	May 19, 1929	46 Stat. 2276.
	Apr. 23, 1936	Sept. 24, 1936	50 Stat. 1117.
		Aug. 5, 1961	13 UST 2065.
Costa Rica	Dec. 4, 1982	Oct. 11, 1991	TIAS.
Cuba	Apr. 6, 1904	Mar. 2, 1905	33 Stat. 2265
	Dec. 6, 1904	Mar. 2, 1905	33 Stat. 2273.
	Jan. 14, 1926	June 18, 1926	44 Stat. 2392.
Cyprus	June 17, 1996	Sept. 14, 1999.	
Czech Republic	July 2, 1925	Mar. 29, 1926	44 Stat. 2367.
	Apr. 29, 1935	Aug. 28, 1935	49 Stat. 3253.
Denmark	June 22, 1972	July 31, 1974	25 UST 1293.
Dominica	June 8, 1972	Jan. 21, 1977	28 UST 227.
Dominican Republic	June 19, 1909	Aug. 2, 1910	36 Stat. 2468.
Ecuador	June 28, 1872	Nov. 12, 1873	18 Stat. 199.
	Sept. 22, 1939	May 29, 1941	55 Stat. 1196.
Egypt	Aug. 11, 1874	Apr. 22, 1875	19 Stat. 572.
El Salvador	Apr. 18, 1911	July 10, 1911	37 Stat. 1516.
Estonia	Nov. 8, 1923	Nov. 15. 1924	43 Stat. 1849.
	Oct. 10, 1934	May 7, 1935	49 Stat. 3190.
Fiji	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
		Aug. 17, 1973	24 UST 1965.
Finland	June 11, 1976	May 11, 1980	31 UST 944.
France	Jan. 6, 1909	July 27, 1911	37 Stat. 1526.
	Feb. 12, 1970	Apr. 3, 1971	22 UST 407.
Gambia	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Germany	June 20, 1978	Aug. 29, 1980	32 UST 1485.
	Oct. 21, 1986	Mar. 11, 1993.	
Ghana	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Greece	May 6, 1931	Nov. 1, 1932	47 Stat. 2185.
	Sept. 2, 1937	Sept. 2, 1937	51 Stat. 357.
Grenada	May 30, 1996	Sept. 14, 1999.	
Guatemala	Feb. 27, 1903	Aug. 15, 1903	33 Stat. 2147.
	Feb. 20, 1940	Mar. 13, 1941	55 Stat. 1097.
Guyana	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Haiti	Aug. 9, 1904	June 28, 1905	34 Stat. 2858.
Honduras	Jan. 15, 1909	July 10, 1912	37 Stat. 1616.
	Feb. 21, 1927	June 5, 1928	45 Stat. 2489.
Hong Kong	Dec. 20, 1996	Jan. 21, 1988.	
Hungary	Dec. 1, 1994	Mar. 18, 1997.	
Iceland	Jan. 6, 1902		32 Stat. 1096.
	Nov. 6, 1905	Feb. 19, 1906	34 Stat. 2887.
India	June 25, 1997	July 21, 1999.	
Iraq	June 7, 1934	Apr. 23, 1936	49 Stat. 3380.
Ireland	July 13, 1983	Dec. 15, 1984	TIAS 10813.
Israel	Dec. 10, 1962	Dec. 5, 1963	14 UST 1707.
		Apr. 11, 1967	18 UST 382.
Italy	Oct. 13, 1983	Sept. 24, 1984	TIAS 10837.
Jamaica	June 14, 1983	July 7, 1991.	
Japan	Mar. 3, 1978	Mar. 26, 1980	31 UST 892.
Jordan	Mar. 28, 1995	July 29, 1995.	

Country	Date Signed	Entered into force	Citation
Kenya	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
		Aug. 19, 1965	16 UST 1866.
Kiribati	June 8, 1972	Jan. 21, 1977	28 UST 227.
Korea	June 9, 1998	Dec. 20, 1999.	
Latvia	Oct. 16, 1923	Mar. 1, 1924	43 Stat. 1738.
	Oct. 10, 1934	Mar. 29, 1935	49 Stat. 3131.
Lesotho	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Liberia	Nov. 1, 1937	Nov. 21, 1939	54 Stat. 1733.
Liechtenstein	May 20, 1936	June 28, 1937	50 Stat. 1337.
Lithuania	Apr. 9, 1924	Aug. 23, 1924	43 Stat. 1835.
	May 17, 1934	Jan. 8, 1935	49 Stat. 3077.
Luxembourg	Oct. 29, 1883	Aug. 13, 1884	23 Stat. 808.
	Apr. 24, 1935	Mar. 3, 1936	49 Stat. 3355.
Malawi	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
		Apr. 4, 1967	18 UST 1822.
Malaysia	Aug. 3, 1995	June 2, 1997.	
	Aug. 3, 1995	June 2, 1997	TIAS.
Malta	Dec. 22, 1931	July 31, 1939	47 Stat. 2122.
Mauritius	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Mexico	May 4, 1978	Jan. 25, 1980	31 UST 5059.
Monaco	Feb. 15, 1939	Mar. 28, 1940	54 Stat. 1780.
Nauru	Dec. 22, 1931	Aug. 30, 1935	47 Stat. 2122.
Netherlands	June 24, 1980	Sept. 15, 1983	TIAS 10733.
New Zealand	Jan. 12, 1970	Dec. 8, 1970	22 UST 1.
Nicaragua	Mar. 1, 1905	July 14, 1907	35 Stat.1869.
Nigeria	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Norway	June 9, 1977	Mar. 7, 1980	31 UST 5619.
Pakistan	Dec. 22, 1931	Mar. 9, 1942	47 Stat. 2122.
Panama	May 25, 1904	May 8, 1905	34 Stat. 2851.
Papua New Guinea	Dec. 22, 1931	Aug. 30, 1935	47 Stat. 2122.
Paraguay	May 24, 1973	May 7, 1974	25 UST 967.
Peru	Nov. 28, 1899	Feb. 22, 1901	31 Stat. 1921.
Philippines	Nov. 13, 1994	Nov. 22, 1996.	
Poland	July 10, 1996	Sept. 17, 1999.	
Portugal	May 7, 1908	Nov. 14, 1908	35 Stat. 2071.
Romania	July 23, 1924	Apr. 7, 1925	44 Stat. 2020.
	Nov. 10, 1936	July 27, 1937	50 Stat. 1349.
Saint Christopher and Nevis.	June 8, 1972	Jan. 21, 1977	28 UST 227.
Saint Lucia	Apr. 18, 1996	Feb. 2, 2000.	
Saint Vincent and the Grenadines.	Aug. 15, 1996	Sept. 8, 1999.	
San Marino	Jan. 10, 1906	July 8, 1908	35 Stat. 1971.
	Oct. 10, 1934	June 28, 1935	49 Stat. 3198.
Seychelles	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Sierra Leone	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Singapore	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
		June 10, 1969	20 UST 2764.
Slovac Republic	July 2, 1925	Mar. 29, 1926	44 Stat. 2367.
	Apr. 29, 1935	Aug. 28, 1935	49 Stat. 3253.
Solomon Islands	June 8, 1972	Jan. 21, 1977	28 UST 277.
South Africa	Dec. 18, 1947	Apr. 30, 1951	2 UST 884.

Country	Date Signed	Entered into force	Citation
Spain	May 29, 1970	June 16, 1971	22 UST 737.
	Jan. 25, 1975	June 2, 1978	29 UST 2283.
	Feb. 9, 1988	July 2, 1993.	
	Mar. 12, 1996	July 25, 1999.	
Sri Lanka	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Suriname	June 2, 1887	July 11, 1889	26 Stat. 1481.
	Jan. 18, 1904	Aug. 28, 1904	33 Stat. 2257.
Swaziland	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
		July 28, 1970	21 UST 1930.
Sweden	Oct. 24, 1961	Dec. 3, 1963	14 UST 1845.
	Mar. 18, 1983	Sept. 24, 1984	TIAS 10812.
Switzerland	Nov.14, 1990	Sept. 10, 1997.	
Tanzania	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
		Dec. 6, 1965	16 UST 2066.
Thailand	Dec. 30, 1922	Mar. 24, 1924	43 Stat. 1749.
Tonga	Dec. 22, 1931	Aug. 1, 1966	47 Stat. 2122.
		Apr. 13, 1977	28 UST 5290.
Trinidad and Tobago.	Mar. 4, 1996	Nov. 29, 1999.	
Turkey	June 7, 1979	Jan. 1, 1981	32 UST 3111.
Tuvalu	June 8, 1972	Jan. 21, 1977	28 UST 227.
		Apr. 25, 1980	32 UST 1310.
United Kingdom	June 8, 1972	Jan. 21, 1977	28 UST 227.
	June 25, 1985	Dec. 23, 1986	TIAS 12050.
Uruguay	Apr. 6, 1973	Apr. 11, 1984	TIAS 10850.
Venezuela	Jan. 19, 1922	Apr. 14, 1923	43 Stat. 1698.
	Jan. 21, 1922	Apr. 14, 1923	43 Stat. 1698.
Yugoslavia *	Oct. 25, 1901	June 12, 1902	32 Stat. 1890
Zambia	Dec. 22, 1931	June 24, 1935	47 Stat. 2122.
Zimbabwe	July 25, 1997	Apr. 26, 2000.	

* For the successor States of Yugoslavia, inquire of the Treaty Office of the United States Department of State.

Convention on Extradition

The United States is a party to the Multilateral Convention on Extradition signed at Montevideo on Dec. 26, 1933, entered into force for the United States on Jan. 25, 1935. 49 Stat. 3111.

Other states which have become parties: Argentina, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama.

b. List of Agreements Signed, but Not Entered into Force[2]

1. Argentina	Signed:	June 10, 1997
2. Austria		January 8, 1998
3. Barbados		February 28, 1996
4. Cyprus		June 17, 1996
5. Dominica		October 10, 1996
6. France		April 23, 1996
7. Grenada		May 30, 1996
8. India		June 25, 1997
9. Luxembourg		October 1, 1996
10. Mexico		November 13, 1997
11. Poland		July 10, 1996
12. Saint Christopher and Nevis		September 18, 1996
13. Saint Lucia		April 18, 1996
14. Saint Vincent and the Grenadines		August 15, 1996
15. Spain		March 12, 1996
16. Trinidad and Tobago		March 4, 1996
17. Zimbabwe		July 25, 1997

[2] U.S., Department of State, Office of the Assistant Legal Advisor for Treaty Affairs.

105TH CONGRESS, 1st Session | SENATE | TREATY DOC. 105–30

EXTRADITION TREATY WITH INDIA

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

EXTRADITION TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF INDIA, SIGNED AT WASHINGTON ON JUNE 25, 1997

SEPTEMBER 23, 1997.—Treaty was read the first time and, together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PRINTING OFFICE
39-118 WASHINGTON : 1997

[3] The following treaties are representative of recent extradition treaties concluded by the United States. As with other recent extradition treaties, they exclude from the political offense exception a broad range of violent crimes. These offenses are also covered by the major international counterterrorism conventions.

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *September 23, 1997.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Extradition Treaty Between the Government of the United States of America and the Government of the Republic of India, signed at Washington on June 25, 1997.

In addition, I transmit, for the information of the Senate, a related exchange of letters signed the same date and the report of the Department of State with respect to the Treaty. As the report states, the Treaty will not require implementing legislation.

The provisions in this Treaty follow generally the form and content of extradition treaties recently concluded by the United States.

Upon entry into force, this Treaty would enhance cooperation between the law enforcement authorities of both countries, and thereby make a significant contribution to international law enforcement efforts. With respect to the United States and India, the Treaty would supersede the Treaty for the Mutual Extradition of Criminals between the United States of America and Great Britain, signed at London, December 22, 1931, which was made applicable to India on March 9, 1942, and is currently applied by the United States and India.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, September 8, 1997.

THE PRESIDENT: I have the honor to submit to you the Extradition Treaty between the Government of the United States of America and the Government of the Republic of India (the "Treaty"), signed at Washington on June 25, 1997. I recommend that the Treaty be transmitted to the Senate for its advice and consent to ratification. Accompanying the Treaty is a related exchange of letters signed the same date. I recommend that these letters be transmitted for the information of the Senate.

The Treaty follows closely the form and content of extradition treaties recently concluded by the United States. The Treaty represents part of a concerted effort by the Department of State and the Department of Justice to develop modern extradition relationships to enhance the ability of the United States to prosecute serious offenders, including, especially, narcotics traffickers and terrorists.

The Treaty marks a significant step in bilateral cooperation between the United States and India. Upon entry into force, it would supersede (with the exception noted below) the Extradition Treaty between the United States and Great Britain signed at London on December 22, 1931, entered into force on June 24, 1935, and made applicable to India from March 9, 1942. The United States and India continued to apply that Treaty following India's independence in 1947. That treaty has become outmoded, and the new treaty will provide significant improvements. The Treaty can be implemented without new legislation.

Article 1 obligates each Party to extradite to the other, pursuant to the provisions of the Treaty, any person charged with or found guilty of an extraditable offense in the Requesting State, whether such offense was committed before or after entry into force of the Treaty.

Article 2(1) defines an extraditable offense as one punishable under the laws of both Contracting States by deprivation of liberty for a period of more than one year, or by a more severe penalty. Use of such a "dual criminality" clause rather than a list of offenses covered by the Treaty obviates the need to renegotiate or supplement the Treaty as additional offenses become punishable under the laws of both Contracting States.

Article 2(2) defines an extraditable offense to include also an attempt or a conspiracy to commit, aiding or abetting, counseling or procuring the commission of or being an accessory before or after the fact to, any extraditable offense as described in Article 2(1).

VI

Additional flexibility is provided by Article 2(3), which provides that an offense shall be considered an extraditable offense: (1) whether or not the laws of the Contracting States place the offense within the same category of offenses or describe the offense by the same terminology; (2) whether or not the offense is one for which United States federal law requires the showing of such matters as interstate transportation or use of the mails or of other facilities affecting interstate or foreign commerce, such matters being merely for the purpose of establishing jurisdiction in a United States federal court; or (3) whether or not it relates to taxation or revenue or is one of a purely fiscal character.

With regard to offenses committed outside the territory of the Requesting State, Article 2(4) provides that an offense described in Article 2 shall be an extraditable offense regardless of where the act or acts constituting the offense were committed. Article 2(5) provides that if extradition has been granted for an extraditable offense, it shall also be granted for any other offense specified in the request, even if the other offenses are punishable by less than one year's deprivation of liberty, provided that all other requirements for extradition have been met.

Article 3 provides that extradition shall not be refused on the ground that the person sought is a national of the Requested State. Neither party, in other words, may invoke nationality as a basis for denying an extradition.

As is customary in extradition treaties, Article 4 incorporates a political offense exception to the obligation to extradite. This exception is substantially identical to that contained in several other modern extradition treaties including the treaty with Jordan, which recently received Senate advice and consent. Article 4(1) states generally that extradition shall not be granted if the offense for which extradition is requested is a political offense. Article 4(2) specifies eight categories of offenses that shall not be considered to be political offenses: (a) a murder or other willful crime against the person of a Head of State or Head of Government of one of the Contracting States, or of a member of the Head of State's family; (b) aircraft hijacking offenses; (c) acts of aviation sabotage; (d) crimes against internationally protected persons, including diplomats; (e) hostage taking; (f) offenses related to illegal drugs; (g) any other offense for which both Parties are obliged pursuant to a multilateral international agreement to extradite the person sought or submit the case to their competent authorities for decision as to prosecution; and (h) a conspiracy or attempt to commit any of the offenses described above, or aiding or abetting a person who commits or attempts to commit such offenses.

Article 5(1) provides that the executive authority of the Requested State may refuse extradition for offenses under military law that are not offenses under ordinary criminal law (e.g. desertion). Article 5(2) provides that extradition shall not be granted if the executive authority of the Requested State determines that the request was politically motivated. Letters exchanged by the Parties at the time of the signing of the Treaty, and included herewith for the information of the Senate, set forth the understanding of the Parties that if either Party is considering prosecution or punishment upon extradition under law laws or rules of criminal proce-

dure other than the Requesting State's ordinary laws or rules of criminal procedure, then the Requesting State must request consultations and make such a request for extradition only upon the agreement of the Requested State. This exchange of letters creates an important and useful limitation on the obligation to extradite fugitives where the prosecution or punishment would be based on extraordinary laws and procedures.

Article 6 bars extradition when the person sought has been convicted or acquitted in the Requested State for the same offense, but does not bar extradition if the competent authorities in the Requested State have declined to prosecute or have decided to discontinue criminal proceedings against the person sought.

Article 7 provides that extradition shall not be granted when the prosecution has become barred by lapse of time according to the laws of the Requesting State.

Under Article 8, when an offense for which extradition is requested is punishable by death under the laws in the Requesting State and is not so punishable under laws in the Requested State, the Requested State may refuse extradition unless the offense constitutes murder under the laws in the Requested State or the Requesting State provides assurances that the Death penalty, if imposed, will not be carried out.

Article 9 establishes the procedures and describes the documents that are required to support a request for extradition. It requires that all requests be submitted through the diplomatic channel. Article 9(3) provides that a request for the extradition of a person sought for prosecution must be supported by such evidence as would justify committal for trial if the offense had been committed in the Requested State. This is a lesser evidentiary standard than that contained in the current extradition treaty and, therefore, should enhance the ability of the United States to obtain extradition of fugitives from India.

Article 10 establishes the procedures under which documents submitted pursuant to the Treaty shall be received and admitted into evidence. Article 11 provides that all documents submitted by the Requesting State shall be in English.

Article 12 sets forth procedures for the provisional arrest of a person sought pending presentation of the formal request for extradition. Article 12(4) provides that if the Requested State's executive authority has not received the request for extradition and supporting documentation within sixty days after the provisional arrest, the person may be discharged from custody. Article 12(5) provides explicitly that discharge from custody pursuant to Article 12(4) does not prejudice subsequent rearrest and extradition upon later delivery of the extradition request and supporting documents.

Article 13 specifies the procedures governing the surrender and return of persons sought. The Requested State is required to notify the Requesting State promptly through the diplomatic channel of its decision on extradition and, if the request is denied in whole or in part, to provide an explanation of the reasons for the denial of the request. If the request is granted, the authorities of the Contracting States shall agree on the time and place for the surrender of the person sought.

VIII

Article 14 concerns temporary and deferred surrender. If a person whose extradition is sought is being proceeded against or is serving a sentence in the Requested State, that State may temporarily surrender the person to the Requesting State solely for the purpose of prosecution. The Requested State may also postpone the extradition proceedings until its prosecution has been concluded and any sentence imposed has been served.

Article 15 sets forth a non-exclusive list of factors to be considered by the Requested State in determining to which State to surrender a person sought by more than one State.

Article 16 provides for the seizure and surrender to the Requesting State of all articles documents and evidence connected with the offense for which extradition is granted, to the extent permitted under the law of the Requested State. Such property may be surrendered even when extradition cannot be effected due to the death, disappearance, or escape of the person sought. Surrender of property may be deferred if it is needed as evidence in the Requested State and may be conditioned upon satisfactory assurances that it will be returned as soon as practicable. Article 16(3) imposes an obligation to respect the rights of third parties in affected property.

Article 17 sets forth the rule of specialty. It provides that a person extradited under the Treaty may not be detained, tried, or punished in the Requesting State for an offense other than that for which extradition has been granted unless the offense is based on the same facts on which extradition was granted (provided such offense is extraditable or is a lesser included offense); the offense was committed after the extradition of the person; or a waiver of the rule of specialty is granted by the executive authority of the Requested State. Similarly, the Requesting State may not extradite the person to a third state for an offense committed prior to the original surrender unless the Requested State consents. These restrictions shall not prevent the detention, trial, or punishment of an extradited person, or that person's extradition to a third State, if the extradited person leaves the Requesting State after extradition and voluntarily returns to it or fails to leave the Requesting State within fifteen days of being free to do so.

Article 18 permits surrender to the Requesting State without further proceedings if the person sought consents to surrender.

Article 19 governs the transit through the territory of one Contracting State of a person being surrendered to the other State by a third State.

Article 20 contains provisions on representation and expenses that are similar to those found in other modern extradition treaties. Specifically, the Requested State is required to represent the interests of the Requesting State in any proceedings arising out of a request for extradition. The Requesting State is required to bear the expenses related to the translation of documents and the transportation of the person surrendered. Article 20(3) clarifies that neither State shall make any pecuniary claim against the other State related to the arrest, detention, examination, custody, or surrender of persons sought under the Treaty.

Article 21 states that the competent authorities of the United States and India may consult with each other directly or through

the facilities of Interpol in connection with the processing of individual cases and in furtherance of maintaining and improving the procedures for the implementation of the Treaty.

Article 22 provides that the Contracting States shall, to the extent permitted by their laws, afford each other the widest measure of mutual assistance in criminal matters in connection with an offense for which extradition has been requested.

Article 23 and 24 contain final clauses dealing with the Treaty's ratification, entry into force and termination. Paragraph 1 of Article 23 states that the Treaty shall be subject to ratification, and the instruments of ratification shall be exchanged as soon as possible. Paragraph 2 states that the treaty shall enter into force upon the exchange of instruments of ratification. Paragraph 3 provides that, upon entry into force of this Treaty, the Treaty for the Mutual Extradition of Criminals between the United States of America and Great Britain, signed at London, December 22, 1931, shall cease to have any effect between the Government of the United States of America and the Government of the Republic of India, except that the prior Treaty shall apply to any extradition proceedings in which the extradition documents have already been submitted to the courts of the Requested States at the time this Treaty enters in force.

Article 24 provides that either Contract State may terminate the Treaty at any time by giving written to the other Contract State, and the termination shall be effective six months after the date of such notice.

A Technical Analysis explaining in detail the provisions of the Treaty is being prepared by the United States negotiating delegation and will be submitted separately to the Senate Committee on Foreign Relations.

The Department of Justice joins the Department of State in favoring approval of this Treaty by the Senate at the earliest possible date.

Respectfully submitted,

STROBE TALBOT.

EXTRADITION TREATY

BETWEEN

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

AND

THE GOVERNMENT OF THE REPUBLIC OF INDIA

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The Government of the United States of America and the Government of the Republic of India;

Recalling the Treaty for the Mutual Extradition of Criminals between the United States of America and Great Britain, signed at London December 22, 1931;

Noting that both the Government of the United States of America and the Government of the Republic of India currently apply the terms of that Treaty; and

Desiring to provide for more effective cooperation between the two States in the suppression of crime, recognizing that concrete steps are necessary to combat terrorism, including narcoterrorism, and drug trafficking, and, for that purpose, to conclude a new treaty for the extradition of fugitive offenders;

Have agreed as follows:

Article 1

Obligation to Extradite

The Contracting States agree to extradite to each other, pursuant to the provisions of this Treaty, persons who, by the authorities in the Requesting State are formally accused of, charged with or convicted of an extraditable offense, whether such offense was committed before or after the entry into force of the Treaty.

Article 2

Extraditable Offenses

1. An offense shall be an extraditable offense if it is punishable under the laws in both Contracting States by deprivation of liberty, including imprisonment, for a period of more than one year or by a more severe penalty.

2. An offense shall also be an extraditable offense if it consists of an attempt or a conspiracy to commit, aiding or abetting, counselling or procuring the commission of or being an accessory before or after the fact to, any offense described in paragraph 1.

3. For the purposes of this Article, an offense shall be an extraditable offense:

(a) whether or not the laws in the Contracting States place the offense within the same category of offenses or describe the offense by the same terminology;

(b) whether or not the offense is one for which United States federal law requires the showing of such matters as interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce, such matters being merely for the purpose of establishing jurisdiction in a United States federal court; or

(c) whether or not it relates to taxation or revenue or is one of a purely fiscal character.

4. Extradition shall be granted for an extraditable offense regardless of where the act or acts constituting the offense were committed.

5. If extradition has been granted for an extraditable offense, it shall also be granted for any other offense specified in the request, even if the latter offense is punishable by less than one year's deprivation of liberty, provided that all other requirements for extradition are met.

Article 3

Nationality

Extradition shall not be refused on the ground that the person sought is a national of the Requested State.

Article 4

Political Offenses

1. Extradition shall not be granted if the offense for which extradition is requested is a political offense.

2. For the purposes of this Treaty, the following offenses shall not be considered to be political offenses:

(a) a murder or other willful crime against the person of a Head of State or Head of Government of one of the Contracting States, or of a member of the Head of State's or Head of Government's family;

(b) aircraft hijacking offenses, as described in The Hague Convention for the Suppression of Unlawful Seizure of Aircraft, done at the Hague on December 16, 1970;

(c) acts of aviation sabotage, as described in the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on September 23, 1971;

(d) crimes against internationally protected persons, including diplomats, as described in the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, done at New York on December 14, 1973;

(e) hostage taking, as described in the International Convention against the Taking of Hostages, done at New York on December 17, 1979;

(f) offenses related to illegal drugs, as described in the Single Convention on Narcotic Drugs, 1961, done at New York on March 30, 1961, the Protocol Amending the Single Convention on Narcotic Drugs, 1961, done at Geneva on March 25, 1972, and the United Nations Convention against Illicit Traffic in Narcotics Drugs and Psychotropic Substances, done at Vienna on December 20, 1988;

(g) any other offense for which both Contracting States have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution; and

(h) a conspiracy or attempt to commit any of the foregoing offenses, or aiding or abetting a person who commits or attempts to commit such offenses.

Article 5

Military Offenses and Other Bases for Denial of Extradition

1. The executive authority of the Requested State may refuse extradition for offenses under military law which are not offenses under ordinary criminal law.

2. Extradition shall not be granted if the executive authority of the Requested State determines that the request was politically motivated.

Article 6

Prior Prosecution

1. Extradition shall not be granted when the person sought has been convicted or acquitted in the Requested State for the offense for which extradition is requested.

2. Extradition shall not be precluded by the fact that the authorities in the Requested State have decided not to prosecute the person sought for the acts for which extradition is requested, or to discontinue any criminal proceedings which have been instituted against the person sought for those acts.

Article 7

Lapse of Time

Extradition shall not be granted when the prosecution has become barred by lapse of time according to the laws of the Requesting State.

Article 8

Capital Punishment

1. When the offense for which extradition is sought is punishable by death under the laws in the Requesting State and is not punishable by death under the laws in the Requested State, the Requested State may refuse extradition unless:

(a) the offense constitutes murder under the laws in the Requested State; or

(b) the Requesting State provides assurances that the death penalty, if imposed, will not be carried out.

2. In instances in which a Requesting State provides an assurance in accordance with paragraph (1)(b) of this Article, the death penalty, if imposed by the courts of the Requesting State, shall not be carried out.

Article 9

Extradition Procedures and Required Documents

1. All requests for extradition shall be submitted through the diplomatic channel.

2. All requests for extradition shall be supported by:

(a) documents, statements, or other types of information which describe the identity and probable location of the person sought;

(b) information describing the facts of the offense and the procedural history of the case;

(c) a statement of the provisions of the law describing the essential elements of the offense for which extradition is requested;

(d) a statement of the provisions of the law describing the punishment for the offense; and

(e) the documents, statements, or other types of information specified in paragraph 3 or paragraph 4 of this Article, as applicable.

3. A request for extradition of a person who is sought for prosecution shall also be supported by:

(a) a copy of the warrant or order of arrest, issued by a judge or other competent authority;

(b) a copy of the charging document, if any; and

(c) such information as would justify the committal for trial of the person if the offense had been committed in the Requested State.

4. A request for extradition relating to a person who has been convicted of the offense for which extradition is sought shall also be supported by:

(a) a copy of the judgment of conviction or, if such copy is not available, a statement by a judicial authority that the person has been convicted;

(b) information establishing that the person sought is the person to whom the conviction refers;

(c) a copy of the sentence imposed, if the person sought has been sentenced, and a statement establishing to what extent the sentence has been carried out; and

(d) in the case of a person who has been convicted in absentia, the documents required in paragraph 3.

Article 10

Admissibility of Documents

The documents which accompany an extradition request shall be received and admitted as evidence in extradition proceedings if:

(a) in the case of a request from the United States, they are certified by the principal diplomatic or principal consular officer of the Republic of India resident in the United States;

(b) in the case of a request from the Republic of India, they are certified by the principal diplomatic or principal consular officer of the United States resident in the Republic of India, as provided by the extradition laws of the United States; or

(c) they are certified or authenticated in any other manner accepted by the laws in the Requested State.

Article 11

Translation

All documents submitted by the Requesting State shall be in English.

Article 12

Provisional Arrest

1. In case of urgency, a Contracting State may request the provisional arrest of the person sought pending presentation of the request for extradition. A request for provisional arrest may be transmitted through the diplomatic channel. The facilities of the International Criminal Police Organization (Interpol) may be used to transmit such a request.

2. The application for provisional arrest shall contain:

(a) a description of the person sought;

(b) the location of the person sought, if known;

(c) a brief statement of the facts of the case, including, if possible, the time and location of the offense;

(d) a description of the laws violated;

(e) a statement of the existence of a warrant of arrest or a finding of guilt or judgment of conviction against the person sought; and

(f) a statement that a request for extradition for the person sought will follow.

3. The Requesting State shall be notified without delay of the disposition of its application and the reasons for any denial.

4. A person who is provisionally arrested may be discharged from custody upon the expiration of sixty (60) days from the date of provisional arrest pursuant to this Treaty if the executive authority of the Requested State has not received the formal request for extradition and the supporting documents required in Article 9.

5. The fact that the person sought has been discharged from custody pursuant to paragraph (4) of this Article shall not prejudice the subsequent rearrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

Article 13

Decision and Surrender

1. The Requested State shall promptly notify the Requesting State through the diplomatic channel of its decision on the request for extradition.

2. If the request is denied in whole or in part, the Requested State shall provide the reasons for the denial. The Requested State shall provide copies of pertinent judicial decisions upon request.

3. If the request for extradition is granted, the authorities of the Contracting States shall agree on the time and place for the surrender of the person sought.

4. If the person sought is not removed from the territory of the Requested State within the time prescribed by the laws in that State, that person may be discharged from custody, and the Requested State may subsequently refuse extradition for the same offense.

Article 14

Temporary and Deferred Surrender

1. If the extradition request is granted in the case of a person who is being prosecuted or is serving a sentence in the Requested State, the Requested State, subject to its laws, may temporarily surrender the person sought to the Requesting State for the purpose of prosecution. The person so surrendered shall be kept in custody in the Requesting State and shall be returned to the Requested State after the conclusion of the proceedings against that person, in accordance with conditions to be determined by agreement of the Contracting States.

2. The Requested State may postpone the extradition proceedings against a person who is being prosecuted or who is serving a sentence in that State. The postponement may continue until the prosecution of the person sought has been concluded or until such person has served any sentence imposed.

Article 15

Requests for Extradition Made by More than One State

If the Requested State receives requests from the other Contracting State and from any other State or States for the extradition of the same person, either for the same offense or for different offenses, the executive authority of the Requested State shall determine to which State it will surrender the person. In making its decision, the Requested State shall consider all relevant factors, including but not limited to:

(a) whether the requests were made pursuant to treaty;

(b) the place where each offense was committed;

(c) the respective interests of the Requesting States;

(d) the gravity of the offenses;

(e) the nationality of the victim;

(f) the possibility of further extradition between the Requesting States; and

(g) the chronological order in which the requests were received from the Requesting States.

Article 16

Seizure and Surrender of Property

1. To the extent permitted under its laws, the Requested State may seize and surrender to the Requesting State all articles, documents, and evidence connected with the offense in respect of which extradition is granted. The items mentioned in this Article may be

surrendered even when the extradition cannot be effected due to the death, disappearance, or escape of the person sought.

2. The Requested State may condition the surrender of the property upon satisfactory assurances from the Requesting State that the property will be returned to the Requested State as soon as practicable. The Requested State may also defer the surrender of such property if it is needed as evidence in the Requested State.

3. The rights of third parties in such property shall be duly respected.

Article 17
Rule of Speciality

1. A person extradited under this Treaty may not be detained, tried, or punished in the Requesting State except for:

(a) the offense for which extradition has been granted or a differently denominated offense based on the same facts on which extradition was granted, provided such offense is extraditable or is a lesser included offense;

(b) an offense committed after the extradition of the person; or

(c) an offense for which the executive authority of the Requested State consents to the person's detention, trial, or punishment. For the purpose of this subparagraph:

(i) the Requested State may require the submission of the documents called for in Article 9; and

(ii) the person extradited may be detained by the Requesting State for 90 days, or for such longer period of time as the Requested State may authorize, while the request is being processed.

2. A person extradited under this Treaty may not be extradited to a third State for an offense committed prior to his surrender unless the surrendering State consents.

3. Paragraphs 1 and 2 of this Article shall not prevent the detention, trial, or punishment of an extradited person, or the extradition of that person to a third State, if:

(a) that person leaves the territory of the Requesting State after extradition and voluntarily returns to it; or

(b) that person does not leave the territory of the Requesting State within 15 days of the day on which that person is free to leave.

Article 18

Waiver of Extradition

If the person sought consents to surrender to the Requesting State, the Requested State may, subject to its laws, surrender the person as expeditiously as possible without further proceedings.

Article 19

Transit

1. Either Contracting State may authorize transportation through its territory of a person surrendered to the other State by a third State. A request for transit shall be made through the diplomatic channel. The facilities of Interpol may be used to transmit such a request. It shall contain a description of the person being transported and a brief statement of the facts of the case. A person in transit may be detained in custody during the period of transit.

2. No authorization is required where air transportation is used and no landing is scheduled on the territory of the Contracting State. If an unscheduled landing occurs on the territory of the other Contracting State, the other Contracting State may require the request for transit as provided in paragraph 1. That Contracting State shall detain the person to be

transported until the request for transit is received and the transit is effected, so long as the request is received within 96 hours of the unscheduled landing.

Article 20

Representation and Expenses

1. The Requested State shall advise, assist, appear in court on behalf of the Requesting State, and represent the interests of the Requesting State, in any proceeding arising out of a request for extradition.

2. The Requesting State shall bear the expenses related to the translation of documents and the transportation of the person surrendered. The Requested State shall pay all other expenses incurred in that State by reason of the extradition proceedings.

3. Neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons sought under this Treaty.

Article 21

Consultation

The competent authorities of the United States and the Republic of India may consult with each other directly or through the facilities of Interpol in connection with the processing of individual cases and in furtherance of maintaining and improving procedures for the implementation of this Treaty.

Article 22

Mutual Legal Assistance in Extradition

Each Contracting State shall, to the extent permitted by its law, afford the other the widest measure of mutual assistance in criminal matters in connection with an offense for which extradition has been requested.

Article 23

Ratification and Entry into Force

1. This Treaty shall be subject to ratification; the instruments of ratification shall be exchanged as soon as possible.

2. This Treaty shall enter into force upon the exchange of the instruments of ratification.

3. Upon the entry into force of this Treaty, the Treaty for the Mutual Extradition of Criminals between the United States of America and Great Britain, signed at London December 22, 1931, shall cease to have any effect between the Government of the United States of America and the Government of the Republic of India. Nevertheless, the prior Treaty shall apply to any extradition proceedings in which the extradition documents have already been submitted to the courts of the Requested State at the time this Treaty enters into force, except that Article 17 of this Treaty shall be applicable to such proceedings.

Article 24

Termination

Either Contracting State may terminate this Treaty at any time by giving written notice to the other Contracting State, and the termination shall be effective six months after the date of such notice.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments have signed this Treaty.

DONE at Washington, in duplicate, this Twenty-fifth day of June, 1997, in the English and Hindi languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE REPUBLIC OF INDIA:

DEPARTMENT OF STATE
WASHINGTON

June 25, 1997

Dear Mr. Minister:

I refer to the extradition treaty between the Government of the United States of America and the Government of the Republic of India signed today. It is the understanding of the Government of the United States of America that, as a general matter, upon extradition, a person shall be proceeded against or punished under the ordinary criminal laws of the Requesting State, and shall be subject to prosecution or punishment in accordance with the Requesting State's ordinary rules of criminal procedure. If either party is considering prosecution or punishment upon extradition under other laws or other rules of criminal procedure, the Requesting State shall request consultations and shall make such a request only upon the agreement of the Requested State.

I would appreciate receiving confirmation that your Government shares this understanding.

Sincerely,

Strobe Talbott
Acting Secretary

His Excellency
Saleem Iqbal Shervani,
Minister of State for External Affairs of India.

SALEEM I. SHERVANI

विदेश राज्य मंत्री
भारत
MINISTER OF STATE FOR EXTERNAL AFFAIRS
INDIA

June 25, 1997

Dear Mr. Talbott,

I am writing with respect to your letter of June 25, 1997, which reads as follows :

" June 25, 1997

"Saleem Iqbal Shervani
Minister of State for External Affairs
Government of India:

" Dear Mr. Minister:

"I refer to the extradition treaty between the Government of the United States of America and the Government of the Republic of India signed today. It is the understanding of the Government of the United States of America that, as a general matter, upon extradition, a person shall be proceeded against or punished under the ordinary criminal laws of the Requesting State, and shall be subject to prosecution or punishment in accordance with the Requesting State's ordinary rules of criminal procedure. If either party is considering prosecution or punishment upon extradition under other laws or other rules of criminal procedure, the Requesting State shall request consultations and shall make such a request only upon the agreement of the Requested State.

"I would appreciate receiving confirmation that your Government shares this understanding.

"Sincerely,

"Strobe Talbott
"Acting Secretary"

I am pleased to confirm that the Government of the Republic of India shares the understanding expressed in your letter.

Yours sincerely,

(Saleem I. Shervani)

The Honorable Strobe Talbott,
Acting Secretary of State.

○

(2) Luxembourg (Signed October 1, 1996)

105TH CONGRESS, 1st Session | SENATE | TREATY DOC. 105–10

EXTRADITION TREATY WITH LUXEMBOURG

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

EXTRADITION TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG, SIGNED AT WASHINGTON ON OCTOBER 1, 1996

JULY 8, 1997.—Treaty was read the first time and, together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

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U.S. GOVERNMENT PRINTING OFFICE

39–118 WASHINGTON : 1997

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *July 8, 1997.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Extradition Treaty between the Government of the United States of America and the Government of the Grand Duchy of Luxembourg, signed at Washington on October 1, 1996.

In addition, I transmit, for the information of the Senate, the report of the Department of State with respect to the Treaty. As the report explains, the Treaty will not require implementing legislation.

The provisions in this Treaty follow generally the form and content of extradition treaties recently concluded by the United States.

This Treaty will, upon entry into force, enhance cooperation between the law enforcement communities of both countries, and thereby make a significant contribution to international law enforcement efforts. It will supersede, with certain noted exceptions, the Extradition Treaty between the United States of America and the Grand Duchy of Luxembourg signed at Berlin on October 29, 1883, and the Supplementary Extradition Convention between the United States and Luxembourg signed at Luxembourg on April 24, 1935.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, June 12, 1997.

THE PRESIDENT: I have the honor to submit to you the Extradition Treaty between the Government of the United States of America and the Government of the Grand Duchy of Luxembourg ("the Treaty"), signed at Washington on October 1, 1996. I recommend that the Treaty be transmitted to the Senate for its advice and consent to ratification.

The Treaty follows generally the form and content of extradition treaties recently concluded by the United States. It represents part of a concerted effort by the Department of State and the Department of Justice to develop modern extradition relationships to enhance the United States ability to prosecute serious offenders including, especially, narcotics traffickers.

The Treaty marks a significant step in bilateral cooperation between the United States and Luxembourg. Upon entry into force, it will supersede the Extradition Treaty between the United States of America and the Grand Duchy of Luxembourg signed at Berlin on October 29, 1883, and the Supplementary Extradition Convention between the United States and Luxembourg that was signed at Luxembourg on April 24, 1935. That treaty and the supplementary extradition convention have become outmoded and the new treaty will provide significant improvements. The Treaty can be implemented without legislation.

Article 1 obligates the Contracting States to extradite to each other, pursuant to the provisions of the Treaty, persons whom the authorities in the Requesting State have charged with, found guilty of, or convicted of an extraditable offense.

Article 2 defines an extraditable offense as one punishable under the laws of both Contracting States by deprivation of liberty for a maximum period of more than one year, or by a more severe penalty. Use of such a "dual criminality" clause rather than a list of offenses covered by the Treaty obviates the need to renegotiate or supplement the Treaty as additional offenses become punishable under the laws of both Contracting States. Article 2(1) defines an extraditable offense to include also an attempt or a conspiracy to commit, or participation or complicity in the commission of an offense.

Additional flexibility is provided by Article 2(3), which provides that in determining whether an offense is an extraditable offense, the Contracting States: (1) shall consider only the essential elements of the offense punishable under the laws of both States and disregard that the respective laws do not place the offense within the same category of offenses or describe the offense by the same

(vi) an attempt to commit one of the offenses described above or participation or complicity in the commission of those offenses; and

(vii) an "association of wrongdoers" formed to commit any of the offenses described above under the laws of Luxembourg or a conspiracy to commit any such offense under the laws of the United States.

Article 4(3) provides that extradition shall not be granted if the executive authority of the Requested State determines that the request was politically motivated. Article 4(4) provides that the executive authority of the Requested State shall refuse extradition for an offense under military law which is not an offense under ordinary criminal law.

Article 5(1) provides that extradition may be denied if the offense for which extradition is sought is a fiscal offense. Article 5(2) defines fiscal offenses to include (a) an offense relating to the reporting and payment of taxes or customs duties, or (b) an offense relating to currency exchange laws. Article 5(3) provides that a party may exclude from the Article 5(2) definition of a fiscal offense, offenses related to drug trafficking, crimes or violence or other serious criminal conduct without regard to whether extradition is sought for such criminal activity.

Article 6 bars extradition when the person sought has been found guilty, convicted or acquitted in the Requested State for the offense for which extradition is requested, but does not bar extradition if the competent authorities in the Requested State have declined to prosecute or have decided to discontinue criminal proceedings.

Under Article 7, when an offense for which extradition is sought is punishable by death under the laws in the Requesting State and is not so punishable under the laws in the Requested State, the Requested State must refuse extradition unless the Requesting State provides assurances that the death penalty will not be imposed or, if imposed, will not be carried out. This Article also provides that the executive authority of the Requested State may refuse extradition for humanitarian reasons unless the Requesting State provides such assurances as the Requested State considers sufficient to take into account such humanitarian concerns.

Article 8 establishes the procedures and describes the documents that are required to support an extradition request. The Article requires that all requests be submitted through the diplomatic channel.

Article 9 allows for the provision of supplementary information within an established time-frame if, at any stage of an extradition proceeding, the Requested State determines that the information in support of the extradition request is not sufficient to fulfill the requirements of its law with respect to extradition.

Article 10 establishes the procedures under which documents submitted pursuant to the provisions of this Treaty shall be received and admitted into evidence.

Article 11 provides that all documents submitted by the Requesting State shall be translated into the language of the Requested State.

Article 12 sets forth procedures for the provisional arrest and detention, in case of urgency, of a person sought pending presentation

terminology, and (2) shall not consider as an essential element of the offense punishable in the United States an element such as interstate transportation or use of the mails or of other facilities affecting interstate or foreign commerce, since such an element is for the purpose of establishing jurisdiction in a United States federal court.

With regard to offenses committed outside the territory of the Requesting State, Article 2(4) provides that an offense shall be extraditable regardless of where the act or acts constituting the offense were committed. The United States recognizes the extraterritorial application of many of its criminal statutes and frequently makes requests for fugitives whose criminal activity occurred in foreign countries with the intent, actual or implied, of affecting the United States.

Article 2(5) also permits extradition for offenses which are punishable by less than one year's imprisonment, if extradition has been granted for a more serious extraditable offense specified in the request, and all other requirements of extradition have been met.

Article 2(6) provides that extradition may be denied if the prosecution of the offense or the execution of the penalty has been barred by lapse of time under the laws of the Requested State. Acts constituting an interruption or suspension of the time-bar in the Requesting State shall be taken into consideration to the extent possible.

Article 3(1) provides that neither Contracting State shall be bound to extradite its own nationals, but that the Executive Authority of the United States—the Secretary of State—shall have the power to extradite U.S. nationals, if, in its discretion, it deems extradition appropriate. Article 3(2) provides that in cases in which extradition is refused solely on nationality grounds, the Requesting State may request that the case be submitted to the competent authorities of the Requested State for prosecution.

As is customary in extradition treaties, Article 4 incorporates a political offense exception to the obligation to extradite. Article 4(1) states generally that extradition shall not be granted if the offense for which extradition is requested is a political offense. Article 4(2) expressly excludes from the reach of the political offense exception several categories of offenses, including the following:

(i) a murder or willful crime against the person of a Head of State of one of the Contracting States, or a member of the Head of State's family;

(ii) an offense for which both Contracting States have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution;

(iii) murder, manslaughter, malicious wounding or inflicting grievous bodily harm;

(iv) an offense involving kidnapping, abduction, or any form of unlawful detention, including the taking of a hostage;

(v) placing or using an explosive, incendiary or destructive device or substance capable of endangering life or causing grievous bodily harm;

of the formal request for extradition. Article 12(4) provides that if the Requested State's executive authority has not received the request for extradition and supporting documentation required in Article 8 within sixty (60) days after the provisional arrest, the person may be discharged from custody. Article 12(5) provides explicitly that discharge from custody pursuant to Article 12(4) does not prejudice subsequent rearrest and extradition upon later delivery of the extradition request and supporting documents.

Article 13 specifies the procedures governing surrender and return of persons sought. It requires the Requested State to provide prompt notice to the Requesting State regarding its extradition decision. If the request is denied in whole or in part, Article 13(2) requires the Requested State to provide information regarding the reasons therefor. If extradition is granted, the authorities of the Contracting States are to agree on time and place of surrender of the person sought.

Article 14 concerns temporary and deferred surrender. If a person is being prosecuted or is serving a sentence in the Requested State for a different offense, that State may (a) temporarily surrender the person to the Requesting State for the purpose of prosecution, or (b) defer surrender until the proceedings are concluded or the sentence served.

Article 15 sets forth a non-exhaustive list of factors to be considered by the Requested State in determining to which State to surrender a person sought by more than one State.

Article 16 provides for the seizure and surrender to the Requesting State all articles, documents, and evidence connected with the offense for which extradition is granted, to the extent permitted under the law of the Requested State. Such property may be surrendered even when extradition cannot be effected due to the death, disappearance, or escape of the person sought. Surrender of property may be deferred if it is needed as evidence in the Requested State and may be conditioned upon satisfactory assurances that it will be returned. Article 16(3) imposes an obligation to respect the rights of third parties in affected property.

Article 17 sets forth the rule of speciality. It provides, subject to specific exceptions, that a person extradited under the Treaty may not be detained, tried, or punished in the Requesting State for an offense other than that for which extradition has been granted, unless the offense was committed after the extradition of the person; the person leaves the territory of the Requesting State after extradition and voluntarily returns to it; the person does not leave the territory of the Requesting State within 15 days of the day on which that person is free to leave; or the executive authority of the Requested State consents. Similarly, the Requesting State may not extradite such person to a third state for an offense committed prior to the original surrender unless the Requested State consents.

Article 18 permits surrender to the Requesting State without further proceedings if the person sought consents to surrender.

Article 19 governs the transit through the territory of one Contracting State of a person being surrendered to the other State by a third State.

Article 20 contains provisions on representation and expenses that are similar to those found in other modern extradition treaties. Specifically, the Requested State shall, to the extent possible under its laws, represent the interests of the Requesting State in extradition proceedings. The Requesting State shall bear the expenses related to the translation of documents and the transportation of the person surrendered. Article 20(3) clarifies that neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons sought under the Treaty.

Article 21 states that the United States Department of Justice and the Ministry of Justice of Luxembourg may consult with each other directly, or through the facilities of the International Criminal Police Organization (INTERPOL) in connection with the processing of individual cases and in furtherance of maintaining and improving Treaty implementation procedures.

Article 22, like the parallel provision in almost all recent United States extradition treaties, states that the Treaty shall apply to offenses committed before as well as after the date the Treaty enters into force.

Ratification and entry into force are addressed in Article 23. That Article provides that the Treaty shall enter into force on the first day of the second month after the exchange of the instruments of ratification, and the instruments of ratification shall be exchanged at Luxembourg as soon as possible. Article 23(3) provides that upon entry into force, the Extradition Treaty between the United States of America and the Grand Duchy of Luxembourg, signed at Berlin on October 29, 1883, as amended by the Supplementary Extradition Convention signed at Luxembourg on April 24, 1935, shall cease to have effect, with certain noted exceptions. The prior treaties will continue to apply to any extradition proceedings in which the extradition documents have already been submitted to the courts of the Requested State at the time this Treaty enters into force, except that Article 2 of this Treaty (Extraditable Offenses) will apply to such proceedings. Paragraph 3 further provides that Articles 14 (Temporary and Deferred Surrender) and 17 (Rule of Speciality) shall apply to persons extraditable under the prior treaties.

Under Article 24, either Contracting State may terminate the Treaty at any time upon written notice to the other Contracting State, with termination to become effective six months after the date of receipt of such notice.

A Technical Analysis explaining in detail the provisions of the treaty is being prepared by the United States negotiating delegation and will be submitted separately to the Senate Committee on Foreign Relations.

The Department of Justice joins the Department of State in favoring approval of this Treaty by the Senate at an early date.

Respectfully submitted,

MADELEINE ALBRIGHT.

EXTRADITION TREATY

BETWEEN THE

UNITED STATES OF AMERICA

AND

THE GRAND DUCHY OF LUXEMBOURG

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The Government of the United States of America and the Government of the Grand Duchy of Luxembourg,

Recalling the Treaty of Extradition between the Contracting States, signed at Berlin, October 29, 1883, as amended by the Supplementary Extradition Convention between the Contracting States, signed at Luxembourg, April 24, 1935;

Noting that both the Government of the United States of America and the Government of the Grand Duchy of Luxembourg currently apply the terms of that Treaty, as amended, and

Desiring to provide for more effective cooperation between the two States in the suppression of crime, and, for that purpose, to conclude a new treaty for the extradition of offenders;

Have agreed as follows:

Article 1

Obligation to Extradite

The Contracting States agree to extradite to each other, pursuant to the provisions of this Treaty, persons whom the authorities in the Requesting State have charged with, found guilty of, or convicted of an extraditable offense.

Article 2

Extraditable Offenses

1. An offense shall be an extraditable offense if it is punishable under the laws in both Contracting States by deprivation of liberty for a maximum period of more than one year or by a more severe penalty. For the purpose of this paragraph, an offense shall include:

(a) an attempt to commit, or participation or complicity in the commission of, an offense; and

(b) an "association of wrongdoers" as provided by the laws of Luxembourg, or a "conspiracy" as provided by the laws of the United States, to commit an offense.

2. Where the request for extradition is for a person sought for the execution of a sentence, extradition

shall only be granted if a penalty of at least six months imprisonment remains to be served.

3. In determining whether an offense is an extraditable offense, the Contracting States:

(a) shall consider only the essential elements of the offense punishable under the laws of both States and shall disregard that the respective laws do not place the offense within the same category of offenses or describe the offense by the same terminology; and

(b) shall not consider as an essential element of an offense punishable in the United States an element such as interstate transportation or use of the mails or of other facilities affecting interstate or foreign commerce, since such an element is for the purpose of establishing jurisdiction in a United States court.

4. An offense shall be an extraditable offense regardless of where the act or acts constituting the offense were committed.

5. If, in addition to an offense extraditable under paragraph 1, the request for extradition includes an offense which is punishable by deprivation of liberty under the laws of both Contracting States, but which does

not fulfill the condition with regard to the amount of punishment which may be imposed, the Requested State shall grant extradition for this offense, provided that all other requirements for extradition are met.

6. Extradition may be denied if prosecution of the offense or execution of the penalty has been barred by lapse of time under the laws of the Requested State. Acts constituting an interruption or suspension of the time-bar in the Requesting State shall be taken into consideration insofar as possible.

Article 3

Nationality

1. Neither Contracting State shall be bound to extradite its own nationals, but the Executive Authority of the United States shall have the power to extradite such persons if, in its discretion, it be deemed proper to do so.

2. If extradition is refused solely on the basis of the nationality of the persons sought, the Requested State shall, at the request of the Requesting State, submit the case to its authorities for prosecution.

Article 4

Political and Military Offenses

1. Extradition shall not be granted if the offense for which extradition is requested is a political offense.

2. For the purposes of this Treaty, the following offenses shall not be considered to be political offenses:

(a) a murder or other willful crime against the person of a Head of State of one of the Contracting States, or of a member of the Head of State's family;

(b) an offense for which both Contracting States have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution;

(c) murder, manslaughter, malicious wounding or inflicting grievous bodily harm;

(d) an offense involving kidnapping, abduction, or any form of unlawful detention, including the taking of a hostage;

(e) placing or using an explosive, incendiary or destructive device or substance capable of endangering life or causing grievous bodily harm;

(f) an attempt to commit, or participation or complicity in the commission of, any of the foregoing offenses; and

(g) an "association of wrongdoers" as provided by the laws of Luxembourg, or a "conspiracy" as provided by the laws of the United States, to commit any of the foregoing offenses.

3. Notwithstanding the terms of paragraph 2 of this Article, extradition shall not be granted if the executive authority of the Requested State determines that the request was politically motivated.

4. The executive authority of the Requested State shall refuse extradition for offenses under military law which are not offenses under ordinary criminal law.

Article 5
Fiscal Offenses

1. The executive authority of the Requested State shall have discretion to deny extradition when the offense for which extradition is requested is a fiscal offense.

2. For purposes of this Treaty, a fiscal offense is:

(a) an offense relating to the reporting and payment of taxes or customs duties, or

(b) an offense relating to currency exchange laws.

3. For purposes of this Treaty, an offense described in paragraph 2 may nonetheless be considered not to be a fiscal offense if it relates to drug trafficking, a crime of violence, or other criminal conduct of a particularly serious nature without regard to whether extradition is sought for such other criminal activity.

Article 6

Prior Prosecution

1. Extradition shall not be granted when the person sought has been found guilty, convicted or acquitted in the Requested State for the offense for which extradition is requested.

2. Extradition shall not be precluded by the fact that the authorities in the Requested State have decided not to prosecute the person sought for the acts for which extradition is requested, or to discontinue any criminal proceedings which have been instituted against the person sought for those acts.

Article 7

Capital Punishment and Humanitarian Concerns

1. When the offense for which extradition is sought is punishable by death under the laws in the Requesting State and is not punishable by death under the laws in the Requested State, the Requested State shall refuse extradition unless the Requesting State provides such assurances as the Requested State considers sufficient that the death penalty will not be imposed or, if imposed, will not be carried out.

2. Notwithstanding the provisions of the present Treaty, the executive authority of the Requested State may refuse extradition for humanitarian concerns unless the Requesting State provides such assurances as the Requested State considers sufficient to take into account the humanitarian concerns.

Article 8

Extradition Procedures and Required Documents

1. Every request for extradition shall be submitted through the diplomatic channel.

2. Each request shall be supported by:

(a) documents, statements, or other types of information which describe the identity,

nationality, and probable location of the person sought;

(b) information describing the facts of the offense and the procedural history of the case;

(c) the text of the law describing the essential elements of the offense for which extradition is requested;

(d) the text of the law describing the punishment for the offense;

(e) the text or a statement of the provisions of law describing any time limit on the prosecution or the service of the sentence and information concerning the interruption or suspension of the time limit; and

(f) the documents, statements, or other types of information specified in paragraph 3 or paragraph 4 of this Article, as applicable.

3. A request for extradition of a person who is sought for prosecution shall also be supported by:

(a) a copy of the warrant or order of arrest issued by a judge or other competent authority;

(b) a copy of the charging document; and

(c) such information as would justify the committal for trial of the person if the offense had been committed in the Requested State.

4. A request for extradition relating to a person who has been found guilty of the offense for which extradition is sought shall also be supported by:

(a) a copy of the judgment of conviction or, if such copy is not available, a statement by a judicial authority that the person has been found guilty;

(b) information establishing that the person sought is the person to whom the finding of guilt refers; and

(c) a copy of the sentence imposed, if the person sought has been sentenced, and a statement establishing to what extent the sentence has been carried out; or

(d) if the person has been found guilty of an offense but no sentence has been imposed, a statement affirming that the Requesting State intends to impose a sentence and a copy of the warrant for the arrest of the person; and

(e) in the case of a person who has been found guilty in absentia, the documents required by paragraph 3.

Article 9

Supplementary Information

1. If, at any stage of the extradition proceedings, the Requested State considers that the information furnished in support of the request for the extradition of a person is not sufficient to fulfill the requirements of its law with respect to extradition, that State may request the necessary supplementary information and may fix a time-limit for the receipt thereof.

2. If the person whose extradition is requested is under arrest and the supplementary information furnished is not sufficient or is not received within the time specified, the person may be released from custody but such release shall not preclude the Requesting State from making a new request for the extradition of the person.

3. Where the person is released from custody in accordance with paragraph 2 of this Article, the Requested State shall notify the Requesting State as soon as practicable.

Article 10

Admissibility of Documents

The documents which accompany an extradition request shall be received and admitted as evidence in extradition proceedings if:

(a) in the case of a request from the United States, they are authenticated by the Department of State of the United States;

(b) in the case of a request from Luxembourg, they are certified by the diplomatic or consular officer of the United States resident in Luxembourg, as provided by the extradition laws of the United States; or

(c) they are certified or authenticated in any other manner accepted by the law of the Requested State.

Article 11

Translation

All documents submitted by Luxembourg shall be translated into English. All documents submitted by the United States shall be translated into French.

Article 12

Provisional Arrest

1. In case of urgency, a Contracting State may request the provisional arrest of the person sought pending presentation of the request for extradition. A request for provisional arrest may be transmitted through the diplomatic channel or directly between the United States Department of Justice and the Ministry of Justice of Luxembourg. The facilities of the International Criminal Police Organization (Interpol) may be used to transmit such a request.

2. The application for provisional arrest shall contain:

(a) a description of the person sought and information concerning the person's nationality;

(b) the location of the person sought, if known;

(c) a brief statement of the facts of the case, including, if possible, the time and location of the offense;

(d) a description of the laws violated;

(e) a statement of the existence of a warrant of arrest or a finding of guilt or

judgment of conviction against the person sought; and

(f) a statement that a request for extradition for the person sought will follow.

3. The Requesting State shall be notified without delay of the disposition of its application and the reasons for any denial.

4. A person who is provisionally arrested may be discharged from custody upon the expiration of sixty (60) days from the date of provisional arrest pursuant to this Treaty if the executive authority of the Requested State has not received the formal request for extradition and the supporting documents required in Article 8.

5. The fact that the person sought has been discharged from custody pursuant to paragraph 4 of this Article shall not prejudice the subsequent rearrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

Article 13

Decision and Surrender

1. The Requested State shall promptly notify the Requesting State of its decision on the request for extradition.

2. If the request is denied in whole or in part, the Requested State shall provide an explanation of the reasons for the denial. The Requested State shall provide copies of pertinent judicial decisions upon request.

3. If the request for extradition is granted, the authorities of the Contracting States shall agree on the time and place for the surrender of the person sought.

4. If the person sought is not removed from the territory of the Requested State within such time as may be prescribed by the law of that State, he may be discharged from custody, and the Requested State may subsequently refuse extradition for the same offense.

5. The period of time spent in detention in the Requested State pursuant to the extradition request of the Requesting State shall be subtracted from the period of detention to be served in the Requesting State. The Contracting States agree to communicate to one another such information relating to the period of detention.

Article 14

Temporary and Deferred Surrender

1. If the extradition request is granted in the case of a person who is being proceeded against or is serving a sentence in the Requested State, the Requested

State may temporarily surrender the person sought to the Requesting State for the purpose of prosecution. The person so surrendered shall be kept in custody in the Requesting State and shall be returned to the Requested State after the conclusion of the proceedings against that person, in accordance with conditions to be determined by agreement of the Contracting States. The time spent in custody in the territory of the Requesting State will be deducted from the time remaining to be served in the Requested State.

2. The Requested State may postpone the extradition proceedings against a person who is being proceeded against or who is serving a sentence in that State. The postponement may continue until the proceedings against the person sought have been concluded or any sentence has been served.

Article 15

Requests for Extradition Made by Several States

If the Requested State receives requests from the other Contracting State and from any other State or States for the extradition of the same person, either for the same offense or for different offenses, the executive authority of the Requested State shall determine to which

State it will surrender the person. In making its decision, the Requested State shall consider all relevant factors, including but not limited to:

(a) whether the requests were made pursuant to treaty;

(b) the place where each offense was committed;

(c) the respective interests of the Requesting States;

(d) the gravity of the offenses;

(e) the nationality of the victim;

(f) the possibility of further extradition between the Requesting States; and

(g) the chronological order in which the requests were received from the Requesting States.

Article 16

Seizure and Surrender of Property

1. To the extent permitted under its law, the Requested State may seize and surrender to the Requesting State all items, including articles, documents, and evidence, connected with the offense in respect of which extradition is granted. The items mentioned in this Article may be surrendered even when the extradition

cannot be effected due to the death, disappearance, or escape of the person sought.

2. The Requested State may condition the surrender of the items upon satisfactory assurances from the Requesting State that the items will be returned to the Requested State as soon as practicable. The Requested State may also defer the surrender of such items if they are needed as evidence in the Requested State.

3. The rights of third parties in such items shall be duly respected.

Article 17

Rule of Speciality

1. A person extradited under this Treaty may not be detained, tried, or punished in the Requesting State except for:

(a) the offense for which extradition has been granted or a differently denominated offense based on the same facts on which extradition was granted, provided such offense is extraditable or is a lesser included offense;

(b) an offense committed after the extradition of the person; or

(c) an offense for which the executive authority of the Requested State consents to the person's detention, trial, or punishment. For the purpose of this subparagraph, the Requested State may require the submission of the documents called for in Article 8 and a document containing the statements of the person extradited. The person extradited may be detained by the Requesting State for 75 days, or for such longer period of time as the Requested State may authorize, while the request is being processed.

2. A person extradited under this Treaty may not be extradited to a third State for an offense committed prior to his surrender unless the surrendering State consents.

3. Paragraphs 1 and 2 of this Article shall not prevent the detention, trial, or punishment of an extradited person, or the extradition of that person to a third State, if:

(a) that person leaves the territory of the Requesting State after extradition and voluntarily returns to it; or

(b) that person does not leave the territory of the Requesting State within 15 days of

the day on which that person is free to leave.

Article 18

Simplified Extradition

If the person sought consents to surrender to the Requesting State, the Requested State may surrender the person as expeditiously as possible without further proceedings.

Article 19

Transit

1. Either Contracting State may authorize transportation through its territory of a person surrendered to the other State by a third State. A request for transit shall be made through the diplomatic channel or directly between the United States Department of Justice and the Ministry of Justice of Luxembourg. The facilities of the International Criminal Police Organization (Interpol) may be used to transmit such a request. It shall contain a description of the person being transported and a brief statement of the facts of the case. A person in transit may be detained in custody during the period of transit. Transit may be refused for

a national of the Requested State and for a person sought for prosecution or to serve a penalty of deprivation of liberty imposed by the authorities of that State.

2. No authorization for transit is required when air transportation is used and no landing is scheduled on the territory of the State being transited. If an unscheduled landing occurs, that State may require the request for transit as provided in paragraph 1. That State shall detain the person to be transported until the request is received and the transit is effected, so long as the request is received within 96 hours of the unscheduled landing.

Article 20

Representation and Expenses

1. The Requested State shall, by all legal means within its power, advise, assist, appear in court and represent the interests of the Requesting State, in any proceeding arising out of a request for extradition.

2. The Requesting State shall bear the expenses related to the translation of documents and the transportation of the person surrendered. The Requested State shall pay all other expenses incurred in that State by reason of the extradition proceedings.

3. Neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons sought under this Treaty.

Article 21

Consultation

The United States Department of Justice and the Ministry of Justice of Luxembourg may consult with each other directly or through the facilities of Interpol in connection with the processing of individual cases and in furtherance of maintaining and improving procedures for the implementation of this Treaty.

Article 22

Application

This Treaty shall apply to offenses committed before as well as after it enters into force.

Article 23

Ratification and Entry into Force

1. This Treaty shall be subject to ratification; the instruments of ratification shall be exchanged at Luxembourg as soon as possible.

2. This Treaty shall enter into force on the first day of the second month after the exchange of the instruments of ratification.

3. Upon the entry into force of this Treaty, the Treaty of Extradition between the United States of America and the Grand Duchy of Luxembourg, signed at Berlin on October 29, 1883, as amended by the Supplementary Extradition Convention signed at Luxembourg on April 24, 1935, shall cease to have any effect. Nevertheless, the prior Treaty as amended shall apply to any extradition proceedings in which the extradition documents have already been submitted to the courts of the Requested State at the time this Treaty enters into force, except that Article 2 of this Treaty shall be applicable to such proceedings. Articles 14 and 17 of this Treaty shall apply to persons found extraditable under the prior Treaty.

Article 24

Termination

Either Contracting State may terminate this Treaty at any time by giving written notice to the other Contracting State, and the termination shall be effective six months after the date of such notice.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Treaty.

DONE at Washington, in duplicate, this first day of OCTOBER, 1996 in the English and French languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG:

104TH CONGRESS
1st Session

SENATE

TREATY DOC.
104–16

EXTRADITION TREATY WITH THE PHILIPPINES

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE EXTRADITION TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES, SIGNED AT MANILA ON NOVEMBER 13, 1994.

SEPTEMBER 5, 1995.—Treaty was read the first time and, together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate.

U.S. GOVERNMENT PRINTING OFFICE
99-118 WASHINGTON : 1995

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *September 5, 1995.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Extradition Treaty Between the Government of the United States of America and the Government of the Republic of the Philippines, signed at Manila on November 13, 1994.

In addition, I transmit for the information of the Senate, the report of the Department of State with respect to the Treaty. As the report explains, the Treaty will not require implementing legislation.

Together with the Treaty Between the Government of the United States of America and the Government of the Republic of the Philippines on Mutual Legal Assistance in Criminal Matters, also signed November 13, 1994, this Treaty will, upon entry into force, enhance cooperation between the law enforcement communities of both countries. It will thereby make a significant contribution to international law enforcement efforts.

The provisions in this Treaty follow generally the form and content of extradition treaties recently concluded by the United States.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, August 4, 1995.

The President,
The White House.

THE PRESIDENT: I have the honor to submit to you the Extradition Treaty between the Government of the United States of America and the Government of the Republic of the Philippines (the "Treaty"), signed at Manila on November 13, 1994. I recommend that the Treaty be transmitted to the Senate for its advice and consent to ratification.

The Treaty follows generally the form and content of extradition treaties recently concluded by the United States. It represents part of a concerted effort by the Department of State and the Department of Justice to develop modern extradition relationships to enhance the United States' ability to prosecute serious offenders including, especially, narcotics traffickers and terrorists.

The Treaty marks a significant step in bilateral cooperation between the United States and the Philippines. Upon entry into force, it will become the first bilateral extradition treaty in effect between the United States and the Philippines. (The United States signed an earlier extradition treaty with the Philippines on November 27, 1981. However, that treaty, which now is outmoded, was not forwarded to the Senate for advice and consent to ratification.) The Treaty can be implemented without legislation.

Article 1 obligates each Contracting Party to extradite to the other, pursuant to the provisions of the Treaty, any person charged with or convicted of an extraditable offense.

Article 2(1) defines an extraditable offense as one punishable under the laws of both Contracting Parties by deprivation of liberty for a period of more than one year, or by a more severe penalty. Use of such a "dual criminality" clause rather than a list of offenses covered by the Treaty obviates the need to renegotiate or supplement the Treaty as additional offenses become punishable under the laws of both Contracting Parties.

Article 2(2) defines an extraditable offense to include also an attempt or a conspiracy to commit, aiding or abetting, counselling, causing or procuring the commission of or being an accessory before or after the fact to an extraditable offense. For such crimes, the Treaty accommodates the differences between U.S. and Philippine criminal law (the Philippines, for example, has no general conspiracy statute) by creating an exception to the general dual-criminality requirement and permitting extradition if the crime is punishable under the laws of the Requesting State by deprivation of lib-

erty for a period of more than one year, or by a more severe penalty, and the underlying offense is an extraditable offense.

Additional flexibility is provided by Article 2(3), which provides that an offense shall be considered an extraditable offense: whether or not the laws in the Contracting Parties place the offense within the same category of offenses or describe the offense by the same terminology; and whether or not the offense is one for which United States federal law requires the showing of such matters as interstate transportation or use of the mails or of other facilities affecting interstate or foreign commerce, such matters being merely for the purpose of establishing jurisdiction in a United States federal court.

With regard to offenses committed outside the territory of the Requesting State, Article 2(4) provides a basis for granting extradition if the Requested State's laws provide for punishment of an offense committed outside of its territory in similar circumstances or if the executive authority of the Requested State, in its discretion, decides to submit the case to its courts for the purpose of extradition.

Finally, article 2(5) provides that if extradition is granted for an extraditable offense, it shall also be granted for other offenses specified in the request that do not meet the minimum penalty requirement, provided that all other extradition requirements are met.

As is customary in extradition treaties, Article 3 incorporates a political offense exception to the obligation to extradite. Article 3(1) states generally that extradition shall not be granted for political offenses. Article 3(2) specifies three categories of offenses that shall not be considered to be political offenses:

(a) a murder or other willful crime against the person of a Head of State of one of the Contracting Parties, or of a member of the Head of State's family;

(b) an offense for which both Contracting Parties are obliged pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their competent authorities for a decision as to prosecution; and

(c) a conspiracy or attempt to commit any of the offenses described above, or aiding and abetting a person who commits or attempts to commit such offenses.

The Treaty's political offense exception is substantially identical to that contained in several other modern extradition treaties, including the treaty with Jordan, which recently received Senate advice and consent. Offenses covered by Article 3(2)(b) include:

—aircraft hijacking covered by The Hague Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague December 16, 1970, and entered into force October 14, 1971 (22 U.S.T. 1641; T.I.A.S. No. 7192);

—aircraft sabotage covered by the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal September 23, 1971, and entered into force January 26, 1973, (24 U.S.T. 564; T.I.A.S. No. 7570);

—crimes against internationally protected persons, including diplomats, covered by the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, done at New York December 14,

1973, and entered into force February 20, 1977 (28 U.S.T. 1975; T.I.A.S. No. 8532);

—hostage-taking covered by the International Convention against the Taking of Hostages, done at New York December 17, 1979; entered into force June 3, 1983, and for the United States January 6, 1985 (T.I.A.S. No. 11081); and

—maritime terrorism covered by the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome March 10, 1988; entered into force March 1, 1992, and for the United States March 6, 1995.

Article 3(3) provides that extradition shall not be granted if the executive authority of the Requested State determines that the request was politically motivated or that the offense is a military offense that is not punishable under non-military penal legislation (for example, desertion).

Article 4 bars extradition when the person sought has been tried and convicted or acquitted in the Requested State for the same offense, but does not bar extradition if the competent authorities in the Requested State have declined to prosecute or have decided to discontinue criminal proceedings against the person sought.

Under Article 5, when an offense for which surrender is sought is punishable by death under the laws of the Requesting State and the laws in the Requested State do not permit such punishment for that offense, the Requested State may refuse extradition unless the Requesting State provides such assurances as the Requested State considers sufficient that if the death is imposed, it will not be carried out. It further provides that if the Requesting State provides such an assurance, the death penalty, if imposed by the courts of the Requesting State, shall not be carried out.

Article 6 provides that extradition shall not be refused on the ground that the person sought is a citizen of the Requested State.

Article 7 establishes the procedures and describes the documents that are required to support an extradition request. The Article requires that all requests be submitted through the diplomatic channel.

Article 7(5) establishes the procedures under which documents submitted pursuant to this Article shall be received and admitted into evidence.

Article 8 provides that all documents submitted by either Contracting Party shall be in English, or shall be translated into English by the Requesting State.

Article 9 sets forth procedures for the provisional arrest and detention of a person sought pending presentation of the formal request for extradition. Article 9(4) provides that if the Requested State's executive authority has not received the request for extradition and supporting documentation within sixty days after the provisional arrest, the person may be discharged from custody. However, Article 9(5) provides explicitly that discharge from custody pursuant to Article 9(4) does not prejudice subsequent rearrest and extradition upon later delivery of the extradition request and supporting documents.

Article 10 specifies the procedures governing surrender and return of persons sought. It requires the Requested State to provide prompt notice to the Requesting State through the diplomatic chan-

nel regarding its extradition decision. If the request is denied in whole or in part, Article 10 also requires the Requesting State to provide information regarding the reasons therefor. If extradition is granted, the person sought must be removed from the territory of the Requested State within the time prescribed by the law of the Requested State.

Article 11 concerns temporary and deferred surrender. If a person whose extradition is sought is being prosecuted or is serving a sentence in the Requested State, that State may temporarily surrender the person to the Requesting State solely for the purpose of prosecution. Alternatively, the Requested State may postpone the extradition proceedings until its prosecution has been concluded and the sentence has been served.

Article 12 sets forth a non-exclusive list of factors to be considered by the Requested State in determining to which State to surrender a person sought by more than one State.

Article 13 sets forth the rule of speciality for this Treaty. It provides, subject to specific exceptions, that a person extradited under the Treaty may not be detained, tried, or punished for an offense other than that for which extradition has been granted, unless a waiver of the rule is granted by the executive authority of the Requested State. Similarly the Requesting State may not extradite such person to a third state for an offense committed prior to the original surrender unless the Requested State consents. These restrictions do not apply if the extradited person leaves the Requesting State after extradition and voluntarily returns to it or fails to leave the Requesting State within ten days of being free to do so.

Article 14 permits surrender to the Requesting State without further proceedings if the person sought provides written consent thereto.

Article 15 provides, to the extent permitted under the law of the Requested State, for the seizure and surrender to the Requesting State of property connected with the offense for which extradition is granted. Such property may be surrender even when extradition cannot be effected due to the death, disappearance, or escape of the person sought. Surrender of property may be deferred if it is needed as evidence in the Requested State and may be conditioned upon satisfactory assurances that it will be returned. Article 15 imposes an obligation to respect the rights of third parties in affected property.

Article 16 governs the transit through the territory of one Contracting Party of a person being surrendered to the other State by a third State.

Article 17 contains provisions on representation and expenses that are similar to those found in other modern extradition treaties. Specifically, the Requested State is required to bear expenses for the legal representation of the Requesting State in any proceedings arising out of a request for extradition. The Requesting State is required to bear the expenses related to the translation of documents and the transportation of the person surrendered. Article 17(3) clarifies that neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons sought under the Treaty.

IX

Article 18 states that the United States and Philippine Departments of Justice may consult with each other directly in connection with the procession of individual cases and in furtherance of maintaining and improving Treaty implementation procedures.

Article 19, like the parallel provision in almost all recent United States extradition treaties, states that the Treaty shall apply to offenses committed before as well as after the date the Treaty enters into force.

Ratification and entry into force are addressed in Article 20. That Article provides that the Treaty shall be subject to ratification and that the instruments of ratification shall be exchanged as soon as possible, whereupon the Treaty shall enter into force.

Under Article 21, either Contracting Party may terminate the Treaty at any time upon written notice to the other party, with termination effective six months after the date of receipt of such notice.

A Technical Analysis explaining in detail the provisions of the Treaty is being prepared by the United States negotiating delegation, consisting of representatives from the Departments of Justice and State, and will be submitted separately to the Senate Committee on Foreign Relations.

The Department of Justice joins the Department of State in favoring approval of this Treaty by the Senate at an early date.

Respectifully submitted,

PETER TARNOFF.

EXTRADITION TREATY

BETWEEN

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

AND

THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES

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EXTRADITION TREATY
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES

The Government of the United States of America and the Government of the Republic of the Philippines,

Desiring to provide for more effective cooperation between the Contracting Parties in the repression of crime; and

Desiring to conclude a Treaty for the reciprocal extradition of offenders;

Have agreed as follows:

Article 1

Obligation to Extradite

The Contracting Parties agree to extradite to each other, pursuant to the provisions of this Treaty, persons whom the authorities in the Requesting State have charged with or convicted of an extraditable offense.

Article 2

Extraditable Offenses

1. An offense shall be an extraditable offense if it is punishable under the laws in both Contracting Parties by deprivation of liberty for a period of more than one year, or by a more severe penalty.

2. An offense shall also be an extraditable offense notwithstanding paragraph 1 of this Article if it consists of an attempt or a conspiracy to commit, aiding or abetting, counselling, causing or procuring the commission of or being an accessory before or after the fact to, any offense that is an extraditable offense pursuant to paragraph 1 and if it is punishable under the laws of the Requesting State by deprivation of liberty for a period of more than one year, or by a more severe penalty.

3. For the purposes of this Article, an offense shall be an extraditable offense:

(a) whether or not the laws in the Contracting Parties place the offense within the same category of offenses or describe the offense by the same terminology; or

(b) whether or not the offense is one for which United States federal law requires the showing of such matters as interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce, such matters being merely for the purpose of establishing jurisdiction in a United States federal court.

4. If the offense was committed outside of the territory of the Requesting State, extradition shall be granted in accordance with the provisions of this Treaty:

(a) if the laws in the Requested State provide for punishment of an offense committed outside of its territory in similar circumstances; or

(b) if the executive authority of the Requested State, in its discretion, decides to submit the case to its courts for the purpose of extradition.

5. If extradition has been granted for an extraditable offense, it shall also be granted for any other offense specified in the request, even if the latter offense is punishable by less than

one year's deprivation of liberty, provided that all other requirements of extradition are met.

Article 3

Political and Military Offenses

1. Extradition shall not be granted if the offense for which extradition is requested is a political offense.

2. For the purposes of this Treaty, the following offenses shall not be considered to be political offenses:

(a) the murder or other willful crime against the person of a Head of State of one of the Contracting Parties, or a member of the Head of State's family;

(b) an offense for which both Contracting Parties have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution; and

(c) a conspiracy or attempt to commit any of the foregoing offenses, or aiding or abetting a person who commits or attempts to commit such offenses.

3. Extradition shall not be granted if the executive authority of the Requested State determines that the request was

politically motivated, or that the offense is a military offense which is not punishable under non-military penal legislation.

Article 4

Prior Prosecution

1. Extradition shall not be granted when the person sought has been tried and convicted or acquitted in the Requested State for the offense for which extradition is requested.

2. Extradition shall not be precluded by the fact that the competent authorities in the Requested State have decided not to prosecute the person sought for the acts for which extradition is requested, or have decided to discontinue any criminal proceedings which have been initiated against the person sought for those acts.

Article 5

Capital Punishment

1. When the offense for which extradition is requested is punishable by death under the laws in the Requesting State, and the laws in the Requested State do not permit such punishment for that offense, extradition may be refused unless the Requesting State provides such assurances as the Requested State considers

sufficient that if the death penalty is imposed, it will not be carried out.

2. In instances in which a Requesting State provides an assurance in accordance with paragraph 1 of this Article, the death penalty, if imposed by the courts of the Requesting State, shall not be carried out.

Article 6

Extradition of Nationals

Extradition shall not be refused on the ground that the person sought is a citizen of the Requested State.

Article 7

Extradition Procedures and Required Documents

1. All requests for extradition shall be submitted through the diplomatic channel.

2. All requests for extradition shall be supported by:

(a) documents, statements, or other types of information which describe the identity and probable location of the person sought;

(b) a statement of the facts of the offense and the procedural history of the case;

(c) a statement of the provisions of the law describing the essential elements of the offense for which extradition is requested;

(d) a statement of the provisions of law describing the punishment for the offense;

(e) a statement of the provisions of the law describing any time limit on the prosecution or the execution of punishment for the offense; and

(f) the documents, statements, or other types of information specified in paragraph 3 or paragraph 4 of this Article, as applicable.

3. In addition to the documents referred to in paragraph 2, a request for extradition of a person who is sought for prosecution shall be accompanied by such evidence as, according to the law of the Requested State, would provide probable cause for his arrest and committal for trial if the offense had been committed there and:

(a) a copy of the warrant or order of arrest issued by a judge or other competent authority; and

(b) a copy of the charging document.

4. A request for extradition relating to a person who has be convicted of the offense for which extradition is sought shall also be supported by:

(a) a copy of the judgment of conviction, or, if such copy is not available, a statement by a judicial authority that the person has been convicted;

(b) information establishing that the person sought is the person to whom the conviction refers;

(c) a copy of the sentence imposed, if the person sought has been sentenced, and a statement establishing to what extent the sentence has been carried out; and

(d) in the case of a person who has been convicted in absentia, the documents required in paragraph 3.

5. The documents which accompany an extradition request shall be received and admitted as evidence in extradition proceedings if:

(a) they are certified by the principal diplomatic or consular officer of the Requested State resident in the Requesting State; or

(b) they are certified or authenticated in any other manner accepted by the law of the Requested State.

Article 8

Language

All documents submitted by either Contracting Party shall be in the English language, or shall be translated into the English language, by the Requesting State.

Article 9

Provisional Arrest

1. In case of urgency, a Contracting Party may request the provisional arrest of the person sought pending presentation of the request for extradition. A request for provisional arrest may be transmitted through the diplomatic channel or directly between the United States Department of Justice and the Philippine Department of Justice.

2. The application for provisional arrest shall contain:

(a) a description of the person sought;

(b) the location of the person sought, if known;

(c) a brief statement of the facts of the case, including, if possible, the time and location of the offense;

(d) a description of the laws violated;

(e) a statement of the existence of a warrant of arrest or finding of guilt or judgment of conviction against the person sought; and

(f) a statement that a request for extradition for the person sought will follow.

3. The Requesting State shall be notified without delay of the disposition of its application and the reasons for any denial.

4. A person who is provisionally arrested may be discharged from custody upon the expiration of sixty (60) days from the date

of arrest pursuant to this Treaty if the executive authority of the Requested State has not received the formal request for extradition and the supporting documents required in Article 7.

5. The fact that the person sought has been discharged from custody pursuant to paragraph 4 of this Article shall not prejudice the subsequent rearrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

Article 10

Decision and Surrender

1. The Requested State shall promptly notify the Requesting State through the diplomatic channel of its decision on the request for extradition.

2. If the request is denied in whole or in part, the Requested State shall provide information as to the reasons for the denial. The Requested State shall provide copies of pertinent judicial decisions upon request.

3. If the request for extradition is granted, the authorities of the Contracting Parties shall agree on the time and place for the surrender of the person sought.

4. If the person sought is not removed from the territory of the Requested State within the time prescribed by the law of that State, that person may be discharged from custody, and the Requested State may subsequently refuse extradition for the same offense.

Article 11

Temporary and Deferred Surrender

1. If the extradition request is granted in the case of a person who is being prosecuted or is serving a sentence in the territory of the Requested State, the Requested State may temporarily surrender the person sought to the Requesting State for the purpose of prosecution. The person so surrendered shall be kept in custody in the Requesting State and shall be returned to the Requested State after the conclusion of the proceedings against that person, in accordance with conditions to be determined by agreement between the Contracting Parties.

2. The Requested State may postpone the extradition proceedings against a person who is being prosecuted or who is serving a sentence in that State. The postponement may continue until the prosecution of the person sought has been concluded or until such person has served any sentence imposed.

Article 12

Requests For Extradition Made By More Than One State

If the Requested State receives requests from the other Contracting Party and from any other State or States for the extradition of the same person, either for the same offense or for a different offense, the executive authority of the Requested State shall determine to which State it will surrender the person. In making its decision, the Requested State shall consider all relevant factors, including but not limited to:

(a) whether the requests were made pursuant to treaty;

(b) the place where each offense was committed;

(c) the respective interests of the Requesting States;

(d) the gravity of the offenses;

(e) the nationality of the victim;

(f) the possibility of further extradition between the Requesting States; and

(g) the chronological order in which the requests were received from the Requesting States.

Article 13

Rule of Speciality

1. A person extradited under this Treaty may not be detained, tried, or punished in the Requesting State except for:

(a) the offense for which extradition has been granted or a differently denominated offense based on the same facts on which extradition was granted provided such offense is extraditable or is a lesser included offense;

(b) an offense committed after the extradition of the person; or

(c) an offense for which the executive authority of the Requested State consents to the person's detention, trial, or punishment. For the purposes of this subparagraph:

(i) the Requested State may require the submission of the documents called for in Article 7; and

(ii) the person extradited may be detained by the Requesting State for 90 days, or for such longer period of time as the Requested State may authorize, while the request is being processed.

2. A person extradited under this Treaty may not be extradited to a third state for an offense committed prior to his surrender unless the surrendering State consents.

3. Paragraphs 1 and 2 of this Article shall not prevent the detention, trial, or punishment of an extradited person, or the extradition of that person to a third state, if:

(a) that person leaves the territory of the Requesting State after extradition and voluntarily returns to it; or

as practicable. The Requested State may also defer the surrender of such property if it is needed as evidence in the Requested State.

3. The rights of third parties in such property shall be duly respected.

Article 16

Transit

1. Either Contracting Party may authorize transportation through its territory of a person surrendered to the other State by a third State. A request for transit shall be transmitted through the diplomatic channel or directly between the United States Department of Justice and the Philippine Department of Justice. It shall contain a description of the person being transported and a brief statement of the facts of the case. A person in transit may be detained in custody during the period of transit.

2. No authorization is required where one Contracting Party is transporting a person surrendered to it by a third State using air transportation and no landing is scheduled on the territory of the other Contracting Party. If an unscheduled landing occurs on the territory of one Contracting Party, that State may require that the other Contracting Party request transit as provided in

paragraph 1. The Contracting Party in which the unscheduled landing occurs shall detain the person to be transported until the request for transit is received and the transit is effected, so long as the request is received within 96 hours of the unscheduled landing.

Article 17

Representation and Expenses

1. The Requested State shall advise, assist, appear in court on behalf of the Requesting State, and represent the interests of the Requesting State, in any proceedings arising out of a request for extradition.

2. The Requesting State shall bear the expenses related to the translation of documents and the transportation of the person surrendered. The Requested State shall pay all other expenses incurred in that State by reason of the extradition proceedings.

3. Neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons sought under this Treaty.

Article 18

Consultation

The Department of Justice of the United States of America and the Department of Justice of the Republic of the Philippines may consult with each other directly in connection with the processing of individual cases and in furtherance of maintaining and improving procedures for the implementation of this Treaty.

Article 19

Application

This Treaty shall apply to offenses encompassed by Article 2 committed before as well as after the date this Treaty enters into force.

Article 20

Ratification and Entry Into Force

1. This Treaty shall be subject to ratification; the instruments of ratification shall be exchanged at Manila as soon as possible.

2. This Treaty shall enter into force upon the exchange of the instruments of ratification.

Article 21

Termination

Either Contracting Party may terminate this Treaty at any time by giving written notice to the other Contracting Party, and the termination shall be effective six months after the date of receipt of such notice.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Treaty.

DONE in duplicate at Manila this thirteenth day of November, 1994.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES:

4. Mutual Legal Assistance Treaties [1]

a. List of Agreements in Force

Country	Date Signed	Entered into force	Citation
Argentina	Dec. 4, 1990	Feb. 9, 1993	TIAS.
Bahamas	June 12, 1987		TIAS.
	Aug. 18, 1989	July 18, 1990	TIAS.
Barbados	Feb. 26, 1997	Sept. 3, 1997	TIAS.
Canada	Mar. 18, 1985	Jan. 24, 1990	TIAS.
Haiti	Aug. 15, 1986	Aug. 15,1986	TIAS 11389.
Hungary	Dec. 1, 1994	Mar. 18, 1997	TIAS.
Italy	Nov. 9, 1982	Nov. 13, 1985	TIAS.
Jamaica	July 7, 1989	July 25, 1995	TIAS.
Korea	Nov. 23, 1993	May 23, 1997	TIAS.
Mexico	Dec. 9, 1987	May 3, 1991	TIAS.
Morocco	Oct. 17, 1983	June 23, 1993	TIAS.
Netherlands	June 12, 1981	Sept. 15, 1983	TIAS 10734.
Nigeria	Nov. 2, 1987	Nov. 2, 1987	TIAS 11540.
Panama	Apr. 11, 1991	Sept. 6, 1995	TIAS.
Philippines	Nov. 13, 1994	Nov. 23, 1996	TIAS.
Russian Fed	June 30, 1995	Feb. 5, 1996	TIAS.
Spain	Nov. 20, 1990	June 30, 1993	TIAS.
Switzerland	May 25, 1973	Jan. 23, 1977	27 UST 2019.
	Nov. 10, 1987	Nov. 10, 1987	TIAS.
	Nov. 3, 1993	Nov. 3, 1993	TIAS.
Thailand	Mar. 19, 1986	June 10, 1993	TIAS.
Turkey	June 7, 1979	Jan. 1, 1981	32 UST 3111.
United Kingdom	Jan. 6, 1994	Dec. 2, 1996	TIAS.
Cayman Islands	July 3, 1986	Mar. 19, 1990	TIAS.
Anguilla	Nov. 9, 1990	Nov. 9, 1990	TIAS 11765.
British Virgin Islands.	Nov. 9, 1990	Nov. 9, 1990	TIAS 11765.
Turks and Caicos Islands.	Nov. 9, 1990	Nov. 9, 1990	TIAS 11765.
Montserrat	Apr. 26, 1991	Apr. 26, 1991	TIAS.
Uruguay	May 6, 1991	Apr. 15, 1994	TIAS.

[1] U.S., Department of State, Office of the Assistant Legal Advisor for Treaty Affairs. Mutual legal assistance treaties facilitate cooperation and collaboration between the law enforcement officials of signatory states. These treaties are used in conjunction with extradition treaties to aid in criminal investigations, prosecutions, and judicial proceedings. Legal assistance such as taking testimony or statements, providing documents, transferring persons in custody, executing searches and seizures, and furnishing evidentiary items is included in these treaties.

b. List of Agreements Signed, but Not Entered into Force[1]

1. Antigua and Barbuda	Signed:	October 23, 1996
2. Australia		April 30, 1997
3. Austria		February 23, 1995
4. Belgium		January 28, 1988
5. Brazil		October 14, 1997
6. Colombia		August 20, 1980
7. Czech Republic		February 4, 1998
8. Dominica		October 10, 1996
9. Egypt		May 2, 1998
10. Estonia		April 2, 1998
11. Grenada		May 30, 1996
12. Hong Kong		April 15, 1997
13. Israel		January 26, 1998
14. Latvia		June 13, 1997
15. Lithuania		January 16, 1998
16. Luxembourg		March 13, 1997
17. Poland		July 10, 1996
18. Saint Christopher and Nevis		September 18, 1997
19. Saint Lucia		April 18, 1996
20. Saint Vincent and the Grenadines		January 8, 1998
21. Trinidad and Tobago		March 4, 1996
22. Venezuela		October 12, 1997

[1] U.S., Department of State, Office of the Assistant Legal Advisor for Treaty Affairs.

c. Sample of Recent Agreement: United Kingdom (Signed January 6, 1994)

104TH CONGRESS *1st Session*	SENATE	TREATY DOC. 104–2

TREATY WITH THE UNITED KINGDOM ON MUTUAL LEGAL ASSISTANCE ON CRIMINAL MATTERS

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS, SIGNED AT WASHINGTON ON JANUARY 6, 1994, TOGETHER WITH A RELATED EXCHANGE OF NOTES SIGNED THE SAME DATE

JANUARY 23, 1995.—Treaty was read the first time and, together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PRINTING OFFICE
99–118 WASHINGTON : 1995

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *January 23, 1995.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland on Mutual Legal Assistance in Criminal Matters, signed at Washington on January 6, 1994, with a related exchange of notes signed the same date. Also transmitted for the information of the Senate is the report of the Department of State with respect to this Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of modern criminals, including members of drug cartels, "white-collar criminals," and terrorists. The Treaty is self-executing.

The Treaty provides for as broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: (1) the taking of testimony or statements of witnesses; (2) the provision of documents, records, and evidence; (3) the service of legal documents; (4) the location or identification of persons; (5) the execution of requests for searches and seizures; and (6) the provision of assistance in proceedings relating to the forfeiture of the proceeds of crime and the collection of fines imposed as a sentence in a criminal prosecution.

I recommend that the Senate give early and favorable consideration to the Treaty, and related exchange of notes, and give its advice and consent to ratification.

WILLIAM J. CLINTON.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, January 6, 1995.

THE PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the Treaty between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland on Mutual Legal Assistance in Criminal Matters (the "Treaty"), signed at Washington on January 6, 1994, together with a related exchange of notes signed on the same date. I recommend that the Treaty and the related exchange of notes be transmitted to the Senate for its advice and consent to ratification.

The Treaty covers mutual legal assistance in criminal matters. In recent years, similar bilateral treaties have entered into force with Argentina, the Bahamas, Canada, Italy, Mexico, Morocco, the Netherlands, Spain, Switzerland, Thailand, Turkey, the United Kingdom concerning the Cayman Islands, and Uruguay. Other similar treaties have been signed and ratified by the United States (but have not yet entered into force) with Belgium, Colombia, and Jamaica. In addition, treaties with Nigeria and Panama have been transmitted to the Senate and await Senate consideration. This Treaty contains many provisions similar to those in the other treaties.

This Treaty will enhance our ability to investigate and prosecute drug-related money laundering offenses. It is designed to be self-executing and will not require implementing legislation.

Article 1 provides for mutual assistance in "proceedings", which is defined in Article 19 to include any measure taken in connection with the investigation or prosecution of criminal offenses, including the freezing, seizure, and forfeiture of proceeds and instrumentalities of crime and the imposition of fines related to a criminal prosecution.

The Treaty does not contain a provision limiting assistance to offenses which are proscribed under the law of the Party from which assistance is requested (the "Requested Party"). As clarified in the interpretative notes that accompany the Treaty, however, the Treaty does not apply to anti-trust or competition investigation or proceedings underway at the time the Treaty was signed. This exchange of notes also provides that the Central Authorities of the Parties may, at a later date, provide assistance in such proceedings as may be agreed in writing between the Parties.

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Article 1 further provides that assistance under the Treaty shall include: taking the testimony or statements or persons; providing documents, records, and evidence; serving documents; locating or identifying persons; transferring persons in custody for testimony or other purposes; executing requests for searches and seizures; identifying, tracing, freezing, seizing, and forfeiting the proceeds and instrumentalities of crime and assistance in related proceedings; and such other assistance as may be agreed between the Central authorities.

Article 1 explicitly states that the Treaty does not create rights in private parties to obtain, suppress, or exclude evidence, or to impede the execution of a request.

Article 2 provides for the establishment of Central Authorities and defines the Central Authorities for purposes of the Treaty. For the United States, the Central Authority is the Attorney General or a person designated by the Attorney General. For the United Kingdom, the Central Authority is the Secretary of State for the Home Department or the Secretary's designee. The article provides that requests under the Treaty shall be made directly between the Central Authorities.

Article 3 sets forth the circumstances under which a Party may deny assistance under the Treaty, including requests related to certain military offenses, offenses of a political character, and requests relating to an offender who, if proceeded against in the Requested Party, would be entitled to be discharged on grounds of a previous acquittal or conviction. In addition, a Requested Party may also refuse assistance, if, in its view, the request, if granted, would impair its sovereignty, security, or other essential interests or would be contrary to important public policy. As clarified in the interpretative notes accompanying the Treaty, the limitation based on "important public policy" grounds would include a Requested Party's policy of opposing the exercise of jurisdiction which, in its view, is extraterritorial and objectionable.

Before denying assistance, the Central Authority of the Requested State is required to consult with its counterpart in the Requesting State to consider whether assistance can be given subject to such conditions it deems necessary. If the Requesting State accepts assistance subject to conditions, it shall comply with the conditions.

Article 4 prescribes the form and content of written requests under the Treaty, specifying in detail the information required in each case. The article specifies further information to be provided to the extent necessary and possible to assist in locating individuals and effecting particular types of assistance.

Article 5 provides that a Request Party shall take whatever steps it deems necessary to give effect to requests from the other Party. Courts in the Requested State are empowered to issue subpoenas, search warrants, or other order orders necessary to execute such requests.

Article 5 further states that requests be executed in accordance with the laws of the Requested State unless the Treaty provides otherwise. The method of execution specified in the request is to be followed to the extent that it is not incompatible with the laws and practices of the Requested Party. If the Central Authority of the

Requested Party determines that execution of the request would interfere with ongoing proceedings or prejudice the safety of any person in its territory, it may postpone execution or, after consultations with the Requesting Party, impose conditions on such execution. If the Requesting Party accepts assistance subject to such conditions, it shall comply with them.

Under Article 5, the Central Authority of the Requested Party shall promptly inform its counterpart in the Requesting Party of the outcome of the execution of a request. If a request is denied, a Central Authority shall inform its counterpart of the reasons for such denial.

Article 6 apportions between the two States the costs incurred in executing a request. Generally, each State shall bear the expenses incurred within its territory of executing a request.

Article 7 establishes procedures both for ensuring the confidentiality of requests and their contents. Upon request, the Requested Party shall keep confidential any information that might indicate that a request has been made or responded to. However, if a request cannot be executed without breaching confidentiality, the Requested State must inform the Requesting State, so that the Requesting State may determine whether to withdraw the request in order to maintain confidentiality. Article 7 further obliges the Requesting Party not to use or disclose any information or evidence obtained under the treaty for purposes unrelated to the proceedings stated in the request without the prior consent of the Requested Party. In the interpretative notes, the Parties recognize that these prohibitions will not prohibit a Requesting Party from disclosing such information to the extent there is an obligation to do so under that Party's Constitution or law. This last clarification was provided to ensure that the United States and the United Kingdom authorities would be in a position to make available exculpatory information to criminal defendants.

Article 8 provides that the Requested Party may compel, if necessary, the taking of testimony or production of documents in its territory on behalf of the Requesting Party. In the event that a person whose testimony or evidence is being taken asserts a claim of immunity, incapacity, or privilege under the laws of the Requesting Party, the testimony or evidence shall be taken and the claim made known to the Requesting Party for resolution by its authorities.

Article 8 also requires the Requested Party, upon request, to inform the Requesting Party in advance of the date and place of the taking of testimony. The Requested Party must also permit the presence of any persons specified in the request (such as the accused, counsel for the accused, or other interested person) and to permit such persons to question the person whose testimony is being taken, through a legal representative qualified to appear before the courts of the Requested Party. Finally, this article provides a mechanism for authentication of documentary evidence produced pursuant to this article and provides that no further authentication or certification shall be necessary in order for such information to be admissible in evidence in proceedings in the Requesting Party.

Article 9 requires that the Requested Party provide the Requesting Party with copies of publicly available records of government departments and agencies. The Requested Party may further pro-

vide copies of other records or information in the possession of a government department or agency but not publicly available to the same extent and under the same conditions as it would to its own law enforcement or judicial authorities. The article requires official authentication of documents furnished, using forms appended to the Treaty and confirms their admissibility in evidence in the Requesting Party if so authenticated.

Article 10 provides a mechanism for a Requesting Party to invite the voluntary appearance and testimony in its territory of a person located in the Requested Party. In such a case, the Central Authority of the Requested Party is required to invite the person to appear and promptly inform the Central Authority of the Requesting Party of the person's response. The request may state that the Requesting Party will assure the person shall not be subject to service of process or be detained or subjected to restriction of personal liberty, by reason of any acts or convictions which preceded his departure from the territory of the Requested Party. This safe conduct shall cease fifteen days after the Central Authority of the Requesting Party has notified its counterpart that the person's presence is no longer required, or if the person has left the territory of the Requesting Party and voluntarily returns to it.

Article 11 provides for the voluntary transfer to one Party of a person in custody in the other Party, for purposes of assistance under the Treaty, provided that the person in question and both Parties agree. The article establishes the express authority and the obligation for the Requesting Party to maintain the person in custody unless otherwise authorized by the Requested Party. It further specifies the requirements for ensuring the person's safety and return to the Requested Party.

Article 12 provides that the Requested Party shall use its best efforts to ascertain the location or identity of persons specified in a request and shall promptly notify the Requesting Party of the results of its inquiries.

Under Article 13, a Requested Party shall, to the extent possible, effect service of process of any document requested under the Treaty, including subpoenas or other process requiring the appearance of any person before any authority or tribunal in the territory of the Requesting Party. Such service, however, does not impose an obligation under the law of the Requested Party to comply with such process. The article further requires that any request for the service of a document requiring a person to appear in the territory of the Requesting Party be transmitted a reasonable time before the scheduled appearance. The Requested Party is required to return proof of service.

Article 14 obligates each Party to execute requests for search, seizure, and delivery of any article to the Requesting Party if the request includes the information justifying such action under the laws of the Requested Party and it is carried out in accordance with the laws of that Party. The Requested Party may refuse such a request if it relates to conduct for which its own powers of search and seizure would not be exercisable in a similar circumstance. The article further provides for the authentication and certification of evidence delivered under this article and provides that the Central

Authority of the Requested Party may impose conditions on transfer to protect third party interests in the property.

Article 15 obliges the Requesting Party to return any documents or articles furnished to it under this treaty unless the Central Authority waives such return.

Article 16 obligates the Parties to assist each other in asset forfeiture proceedings. Specifically, the Parties agree to assist each other in proceedings involving the identification, tracing, freezing, seizure, or forfeiture of the proceeds and instrumentalities of crime and to assist each other in relation to proceedings involving the imposition of fines related to a criminal prosecution. Under this article, a Requested Party may transfer forfeited assets or the proceeds of their sale to the other Party to the extent permitted by the former's domestic law, upon such terms as may be agreed.

Article 17 provides that assistance and procedures provided in this Treaty shall not prevent the Parties from providing assistance to each other through the provisions of other international agreements, national laws, or any other arrangement, agreement, or practice applicable between their law enforcement agencies.

Article 18 provides that the Parties or their Central Authorities shall consult promptly at the request of either, concerning the implementation of this Treaty. Article 18 also contains novel consultative procedures to enable the Parties to have first recourse to the Treaty, with respect to any matter for which assistance could be granted under the Treaty, prior to the enforcement of a "compulsory measure" requiring an action to be performed by a person located in the territory of the other Party. The term "compulsory measure" is described with greater specificity in the interpretative notes. Under the consultative mechanisms for dealing with the enforcement of compulsory measures, if a Party is aware that its authorities are intending to take such compulsory measures, its Central Authority shall inform the other Central Authority, who may request consultations. Should a Central Authority learn that such measures may be taken in its territory, it may also request consultations. Ultimately, should consultations fail to resolve the matter, cause unreasonable delay, or jeopardize the successful completion of a proceeding, enforcement of the compulsory measure is not foreclosed. In such instance the Central Authority of the Party taking such action may give written notice to the other Central Authority of that circumstance. Article 18 finally provides for a general obligation of the parties to exercise moderation and restraint, even when the Parties' consultation obligations under this article are satisfied.

In addition to the consultative mechanism for compulsory measures described above, the interpretative notes commit the U.S. Department of Justice, on behalf of the United States Government, to take certain specified practical measures to reduce the number of instances in which a conflict of laws, policies, or national interests may arise. Specifically, the notes state that the Department of Justice shall: (1) Instruct all federal prosecutors not to seek compulsory measures, as referred to in Article 18(2) with respect to any matter for which assistance could be granted under the Treaty unless the U.S. Central Authority has concluded that the consultative mechanisms in Article 18 have been satisfied; (2) instruct all fed-

eral prosecutors not to enforce any compulsory measures, as referred to in Article 18(2), with respect to any matter for which assistance could be granted under the Treaty unless the U.S. Central Authority has concluded that the consultative mechanisms in Article 18 have been satisfied; and (3) undertake to discourage the issue of compulsory measures by other U.S. Government agencies for evidence located in the United Kingdom in any matter covered by the Treaty by advising all such agencies not to seek such process without consultation and coordination with the United States Central Authority.

Article 19 defines the term "proceedings", thus setting forth the matters for which the Parties will provide assistance under the Treaty. As noted above, the term "proceedings" means proceedings related to criminal matters and includes any measure or step taken in connection with the investigation or prosecution of criminal offenses, including the freezing, seizure or forfeiture of the proceeds and instrumentalities of crime, and the imposition of fines related to a criminal prosecution. Article 19 further provides that the Central Authorities may at their discretion treat as proceedings such hearings before or investigations by any court, administrative agency or administrative tribunal with respect to the imposition of civil or administrative sanctions as may be agreed in writing between the Parties.

Article 20 sets forth the territorial application of the Treaty. With respect to the United Kingdom, the Treaty shall apply to England, Wales, Scotland, Northern Ireland, the Isle of Man, Channel Islands, and to any other territory for whose international relations the United Kingdom is responsible and to which this Treaty shall have been extended by agreement between the Parties.

Article 21 provides that the treaty shall be ratified and shall enter into force upon an exchange of instruments of ratification.

Article 22 provides for termination to be effective six months after written notice of termination is given by one party to the other Party.

A Technical Analysis explaining in detail the provisions of the Treaty is being prepared by the United States negotiating delegation, consisting of representatives from the Departments of Justice and State, and will be transmitted separately to the Senate Committee on Foreign Relations.

The Department of Justice joins the Department of State in favoring approval of this Treaty and related exchange of notes by the Senate as soon as possible.

Respectfully submitted,

WARREN CHRISTOPHER.

TREATY BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND
ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

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TREATY BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND
ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

The Government of the United States of America and The Government of the United Kingdom of Great Britain and Northern Ireland,

Desiring to improve the effectiveness of the law enforcement authorities of both countries in the investigation, prosecution, and combatting of crime through cooperation and mutual legal assistance in criminal matters,

Reaffirming their determination to enhance assistance in the fight against crime as set out in the Agreement Concerning the Investigation of Drug Trafficking Offences and the Seizure and Forfeiture of Proceeds and Instrumentalities of Drug Trafficking, done at London February 9, 1988,

Have agreed as follows:

ARTICLE 1

Scope of Assistance

1. The Parties shall provide mutual assistance, in accordance with the provisions of this Treaty, for the purpose of proceedings as defined in Article 19 of this Treaty.

2. Assistance shall include:

(a) taking the testimony or statements of persons;

(b) providing documents, records, and evidence;

(c) serving documents;

(d) locating or identifying persons;

(e) transferring persons in custody for testimony (or other purposes);

(f) executing requests for searches and seizures;

(g) identifying, tracing, freezing, seizing, and forfeiting the proceeds and instrumentalities of crime and assistance in related proceedings; and

(h) such other assistance as may be agreed between Central Authorities.

3. This Treaty is intended solely for mutual legal assistance between the Parties. The provisions of this Treaty shall not give rise to a right on the part of any private person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

ARTICLE 2

Central Authorities

1. Central Authorities shall be established by both Parties.

2. For the United States of America, the Central Authority shall be the Attorney General or a person or agency designated by him. For the United Kingdom, the Central Authority shall be the Secretary of State for the Home Department or a person or agency designated by him.

3. Requests under this Treaty shall be made by the Central Authority of the Requesting Party to the Central Authority of the Requested Party.

4. The Central Authorities shall communicate directly with one another for the purposes of this Treaty.

ARTICLE 3

Limitations on Assistance

1. The Central Authority of the Requested Party may refuse assistance if:

(a) the Requested Party is of the opinion that the request, if granted, would impair its sovereignty, security, or other essential interests or would be contrary to important public policy;

(b) the request relates to an offender who, if proceeded against in the Requested Party for the offence for which assistance is requested, would be entitled to be discharged on the grounds of a previous acquittal or conviction; or

(c) the request relates to an offence that is regarded by the Requested Party as:

(i) an offence of a political character; or

(ii) an offence under military law of the Requested Party which is not also an offence under the ordinary criminal law of the Requested Party.

2. Before denying assistance pursuant to this Article, the Central Authority of the Requested Party shall consult with the Central Authority of the Requesting Party to consider whether assistance can be given subject to such conditions as it deems necessary. If the Requesting Party accepts assistance subject to these conditions, it shall comply with the conditions.

ARTICLE 4

Form and Contents of Requests

1. Requests shall be submitted in writing. However, in urgent circumstances, the request may be made orally but shall be confirmed in writing within ten days thereafter.

2. The request shall include the following:

(a) the name of the authority conducting the proceedings to which the request relates;

(b) the subject matter and nature of the proceedings for the purposes of which the request is made;

(c) a summary of the information giving rise to the request;

(d) a description of the evidence or information or other assistance sought; and

(e) the purpose for which the evidence or information or other assistance is sought.

3. To the extent necessary and possible, a request shall also include:

(a) the identity, date of birth and location of any person from whom evidence is sought;

(b) the identity, date of birth and location of a person to be served, that person's relationship to the proceedings, and the manner in which the service is to be made;

(c) available information on the identity and whereabouts of a person to be located;

(d) a precise description of the place or person to be searched and of the articles to be seized;

(e) a description of the manner in which any testimony or statement is to be taken and recorded;

(f) a list of questions to be asked of a witness;

(g) a description of any particular procedures to be followed in executing the request;

(h) information as to the allowances and expenses to which a person asked to appear in the territory of the Requesting Party will be entitled;

(i) any other information which may be brought to the attention of the Requested Party to facilitate its execution of the request; and

(j) requirements for confidentiality.

4. The Requested Party may ask the Requesting Party to provide any further information which appears to the Requested Party to be necessary for the purpose of executing the request.

ARTICLE 5

Execution of Requests

1. As empowered by this Treaty or by national law, or in accordance with its national practice, the Requested Party shall take whatever steps it deems necessary to give effect to requests received from the Requesting Party. The courts of the Requested Party shall have authority to issue subpoenas, search warrants, or other orders necessary to execute the request.

2. When execution of the request requires judicial or administrative action, the request shall be presented to the appropriate authority by the persons appointed by the Central Authority of the Requested Party.

3. The method of execution specified in the request shall be followed to the extent that it is not incompatible with the laws and practices of the Requested Party.

4. If the Central Authority of the Requested Party determines that execution of the request would interfere with ongoing proceedings or prejudice the safety of any person in the territory of the Requested Party, the Central Authority of that Party may postpone execution, or make execution subject to conditions determined necessary after consultation with the Requesting Party. If the Requesting Party accepts the assistance subject to the conditions, it shall comply with the conditions.

5. The Central Authority of the Requested Party shall facilitate the participation in the execution of the request of such persons as are specified in the request.

6. The Central Authority of the Requested Party may ask the Central Authority of the Requesting Party to provide information in such form as may be necessary to enable it to execute the request or to undertake any steps which may be necessary under the laws and practices of the Requested Party in order to give effect to the request received from the Requesting Party.

7. The Central Authority of the Requesting Party shall inform the Central Authority of the Requested Party promptly of any circumstances which make it inappropriate to proceed with the execution of the request or which require modification of the action requested.

8. The Central Authority of the Requested Party shall promptly inform the Central Authority of the Requesting Party of the outcome of the execution of the request. If the request is denied, the Central Authority of the Requested Party shall inform the Central Authority of the reasons for the denial.

ARTICLE 6

Costs

1. The Requested Party shall, subject to paragraph (2) of this Article, pay all costs relating to the execution of the request, except for the fees of expert witnesses and the allowances and expenses related to the travel of persons pursuant to Articles 10 and 11 of this Treaty, which fees, allowances, and expenses shall be paid by the Requesting Party.

2. If the Central Authority of the Requested Party notifies the Central Authority of the Requesting Party that execution of the request might require costs or other resources of an extraordinary nature, or if it otherwise requests, the Central Authorities shall consult with a view to reaching agreement on the conditions under which the request shall be executed and the manner in which costs shall be allocated.

ARTICLE 7

Confidentiality and Limitations on Use

1. The Requested Party shall, upon request, keep confidential any information which might indicate that a request has been made or responded to. If the request cannot be executed without breaching confidentiality, the Requested Party shall so inform the Requesting Party, which shall then determine the extent to which it wishes the request to be executed.

2. The Requesting Party shall not use or disclose any information or evidence obtained under this Treaty for any purposes other than for the proceedings stated in the request without the prior consent of the Requested Party.

3. Unless otherwise indicated by the Requested Party when executing the request, information or evidence, the contents of which have been disclosed in a public judicial or administrative hearing related to the request, may thereafter be used for any purpose.

ARTICLE 8

Taking Testimony and Producing Evidence in the Territory of the Requested Party

1. A person in the territory of the Requested Party from whom evidence is requested pursuant to this Treaty may be compelled, if necessary, to appear in order to testify or produce

documents, records, or articles of evidence by subpoena or such other method as may be permitted under the law of the Requested Party.

2. A person requested to testify or to produce documentary information or articles in the territory of the Requested Party may be compelled to do so in accordance with the requirements of the law of the Requested Party. If such a person asserts a claim of immunity, incapacity or privilege under the laws of the Requesting Party, the evidence shall nonetheless be taken and the claim be made known to the Requesting Party for resolution by the authorities of that Party.

3. Upon request, the Central Authority of the Requested Party shall furnish information in advance about the date and place of the taking of the evidence pursuant to this Article.

4. The Requested Party shall allow persons specified in the request to ask questions of the person whose testimony or evidence is being taken, through a legal representative qualified to appear before the courts of the Requested Party.

5. Documentary information produced pursuant to this Article may be authenticated by the attestation of a person competent to do so in the form indicated in Appendix A to this Treaty. No further authentication or certification shall be necessary in order for such documentary information to be admissible in evidence in proceedings in the territory of the Requesting Party. Documentary information produced pursuant to

this Article may also be authenticated pursuant to such other form or manner as may be prescribed from time to time by either Central Authority.

ARTICLE 9

Records of Government Agencies

1. The Requested Party shall provide the Requesting Party with copies of publicly available records of government departments and agencies of the Requested Party.

2. The Requested Party may provide a copy of any record or information in the possession of a government department or agency but not publicly available to the same extent and on the same conditions as to its own law enforcement or judicial authorities. The Requested Party may refuse a request pursuant to this paragraph entirely or in part.

3. Official records provided pursuant to this Article shall be authenticated by the Central Authority of the Requested Party in the manner indicated in Appendix B to this Treaty. No further authentication or certification shall be necessary in order for such records to be admissible in evidence in proceedings in the territory of the Requesting Party. Records provided pursuant to this Article may also be authenticated pursuant to such other form or manner as may be prescribed from time to time by either Central Authority.

ARTICLE 10

Personal Appearance in the Territory of the Requesting Party

1. A request under this Treaty may seek assistance in facilitating the appearance of any person in the territory of the Requesting Party for the purpose of giving evidence before a court or of being identified in, or otherwise by his presence assisting, any proceedings.

2. The Central Authority of the Requested Party shall:

(a) ask a person whose voluntary appearance in the territory of the Requesting Party is desired whether he agrees to appear; and

(b) promptly inform the Central Authority of the Requesting Party of his answer.

3. If the Central Authority of the Requesting Party so indicates, a person agreeing to appear in the territory of the Requesting Party pursuant to this article shall not be subject to service of process, or be detained or subjected to any restriction of personal liberty, by reason of any acts or convictions which preceded his departure from the territory of the Requested Party.

4. The safe conduct provided for by this Article shall cease fifteen days after the Central Authority of the Requesting Party has notified the Central Authority of the Requested Party that the person's presence is no longer required, or if the

person has left the territory of the Requesting Party and voluntarily returned to it.

ARTICLE 11

Transfer of Persons in Custody

1. A person in the custody of one Party whose presence in the territory of the other Party is sought for the purpose of providing assistance under this Treaty shall be transferred for that purpose if the person and both Parties consent.

2. For the purposes of this Article:

(a) the Requesting Party shall be responsible for the safety of the person transferred and shall have the authority and the obligation to keep the person transferred in custody unless otherwise authorised by the Requested Party;

(b) the Requesting Party shall return the person transferred to the custody of the Requested Party as soon as circumstances permit and in any event no later than the date upon which he would have been released from custody in the territory of the Requested Party, unless otherwise agreed by both Central Authorities and the person transferred; and

(c) the Requesting Party shall not require the Requested Party to initiate extradition proceedings for the return of the person transferred.

ARTICLE 12

Location or Identification of Persons

1. The Requested Party shall make best efforts to ascertain the location or identity of persons specified in the request.

2. The Central Authority of the Requested Party shall promptly communicate the results of its inquiries to the Central Authority of the Requesting Party.

ARTICLE 13

Service of Documents

1. The Requested Party shall, as far as possible, effect service of any document relating to or forming part of any request for assistance properly made pursuant to this Treaty by the Requesting Party, including any subpoena or other process requiring the appearance of any person before any authority or tribunal in the territory of the Requesting Party.

2. Service of any subpoena or other process by virtue of paragraph (1) of this Article shall not impose any obligation under the law of the Requested Party to comply with it.

3. The Central Authority of the Requesting Party shall transmit any request for the service of a document requiring the appearance of a person before an authority in the Requesting Party a reasonable time before the scheduled appearance.

4. The Requested Party shall return a proof of service in the manner specified in the request.

ARTICLE 14

Search and Seizure

1. The Requested Party shall execute a request for the search, seizure and delivery of any article to the Requesting Party if the request includes the information justifying such action under the laws of the Requested Party and it is carried out in accordance with the laws of that Party.

2. The Requested Party may refuse a request if it relates to conduct in respect of which powers of search and seizure would not be exercisable in the territory of the Requested Party in similar circumstances.

3. Every official who has custody of a seized article shall certify the continuity of custody, the identity of the article and the integrity of its condition in the form indicated in Appendix C to this Treaty. No further authentication or certification shall be necessary in order to establish these matters in proceedings in the territory of the Requesting Party. Certification under this Article may also be provided in any

other form or manner as may be prescribed from time to time by either Central Authority.

4. The Central Authority of the Requested Party may require that the Requesting Party agree to terms and conditions which the Requested Party may deem necessary to protect third party interests in the item to be transferred.

ARTICLE 15

Return of Documents and Articles

The Central Authority of the Requesting Party shall return any documents or articles furnished to it in the execution of a request under this Treaty as soon as is practicable unless the Central Authority of the Requested Party waives the return of the documents or articles.

ARTICLE 16

Assistance in Forfeiture Proceedings

1. The Parties shall assist each other in proceedings involving the identification, tracing, freezing, seizure or forfeiture of the proceeds and instrumentalities of crime and in relation to proceedings involving the imposition of fines related to a criminal prosecution.

2. If the Central Authority of one Party becomes aware that proceeds or instrumentalities are located in the territory of the

other Party and may be liable to freezing, seizure or forfeiture under the laws of that Party, it may so inform the Central Authority of the other Party. If the Party so notified has jurisdiction, this information may be presented to its authorities for a determination whether any action is appropriate. The said authorities shall issue their decision in accordance with the laws of their country and the Central Authority of that country shall ensure that the other Party is aware of the action taken.

3. A Requested Party in control of forfeited proceeds or instrumentalities shall dispose of them according to its laws. Either Party may transfer forfeited assets or the proceeds of their sale to the other Party to the extent permitted by their respective laws, upon such terms as may be agreed.

ARTICLE 17

Compatibility with Other Arrangements

Assistance and procedures set forth in this Treaty shall not prevent either of the Parties from granting assistance to the other Party through the provisions of other international agreements to which it may be a party, or through the provisions of its national laws. The Parties may also provide assistance pursuant to any arrangement, agreement, or practice which may be applicable between the law enforcement agencies of the Parties.

ARTICLE 18

Consultation

1. The Parties, or Central Authorities, shall consult promptly, at the request of either, concerning the implementation of this Treaty either generally or in relation to a particular case. Such consultation may in particular take place if, in the opinion of either Party or Central Authority, the expenses or other resources required for the implementation of this Treaty are of an extraordinary nature, or if either Party has rights or obligations under another bilateral or multilateral agreement relating to the subject matter of this Treaty.

2. With respect to any matter for which assistance could be granted under this Treaty, neither Party shall enforce any compulsory measure requiring an action to be performed by any person located in the territory of the other Party, unless the Party proposing such enforcement has first exhausted the procedures established in paragraphs (3) and (4) of this Article.

3. If a Party is aware that its authorities are intending to take measures referred to in paragraph (2) of this Article, its Central Authority shall inform the other Central Authority, who may request consultations. If the other Party is aware of or considers that the authorities of the first Party have taken or are about to take any such measures, its Central Authority may request consultations. Thereafter, the Central Authorities shall

consult with a view to determining whether the assistance sought can be provided under this Treaty, or otherwise resolving the matter.

4. Where consultations fail to resolve the matter, or unreasonable delay may be jeopardizing the successful completion of a proceeding, either Central Authority may give the other written notice to that effect.

5. Unless otherwise agreed by the Parties, the obligations under paragraphs (2), (3) and (4) of this Article shall have been fulfilled 21 days after receipt of this written notice, provided that this is not less than 60 days after receipt of the request referred to in paragraph (3) above.

6. Even in those cases in which the Parties' obligations under this Article have been fulfilled, each Party shall continue to exercise moderation and restraint.

ARTICLE 19

Definitions

1. For the purposes of this Treaty, "proceedings" means proceedings related to criminal matters and includes any measure or step taken in connection with the investigation or prosecution of criminal offences, including the freezing, seizure or forfeiture of the proceeds and instrumentalities of crime, and the imposition of fines related to a criminal prosecution.

2. In addition, the Central Authorities may at their discretion treat as proceedings for the purpose of this Treaty such hearings before or investigations by any court, administrative agency or administrative tribunal with respect to the imposition of civil or administrative sanctions as may be agreed in writing between the Parties.

ARTICLE 20

Territorial Application

This Treaty shall apply:

1. in relation to the United Kingdom:
   (a) to England and Wales, Scotland, and Northern Ireland; and
   (b) to the Isle of Man, Channel Islands and to any other territory for whose international relations the United Kingdom is responsible and to which this Treaty shall have been extended by agreement between the Parties, subject to any technical modifications agreed by the Parties and to either Party being able to terminate such extension by giving six months written notice to the other through the diplomatic channel; and
2. to the United States of America.

ARTICLE 21

Ratification and Entry into Force

1. This Treaty shall be ratified, and the instruments of ratification shall be exchanged at London as soon as possible.

2. This Treaty shall enter into force upon the exchange of instruments of ratification.

ARTICLE 22

Termination

Either Party may terminate this Treaty by means of a written notice to the other Party. Termination shall take effect six months following the date of notification.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Treaty.

DONE in duplicate at Washington this sixth day of January, 1994.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND:

Appendix A

CERTIFICATE OF AUTHENTICITY OF BUSINESS RECORDS

I, _____ (Name), attest on penalty of criminal punishment for false statement or false attestation that I am employed by _____ (Name of Business from which documents are produced) and that my official title is _____ (Official Title). I further state that each of the records attached hereto is the original or a duplicate of the original of records in the custody of _____ (Name of Business from which documents are produced). I further state that:

A) such records were made at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;

B) such records were kept in the course of a regularly conducted business activity;

C) the business activity made the records as a regular practice; and

D) if any of such records is not the original, such record is a duplicate of the original.

_____ (Signature) _____ (Date)

Sworn to or affirmed before me, _____ (Name), a _____ (notary public, judicial officer, etc.), this ____ day of _____, 199___.

Appendix B

ATTESTATION OF AUTHENTICITY OF FOREIGN PUBLIC DOCUMENTS

I, _____, attest on penalty of criminal
(Name)

punishment for false statement or attestation that my position

with the Government of _____
(Country)

is _____ and that in that position I am
(Official Title)

authorized by the law of _____
(Country)

to attest that the documents attached and described below are

true and accurate copies of original official records which are

recorded or filed in _____
(Name of Office or Agency)

which is a government office or agency of the Government of

_____.
(Country)

Description of Documents:

_____
(Signature)

_____
(Title)

_____
(Date)

Appendix C

ATTESTATION WITH RESPECT TO SEIZED ARTICLES

I, _____, attest on penalty of criminal
(Name)

punishment for false statement or attestation that my position

with the Government of _____
(Country)

is _____. I received custody of the articles
(Title)

listed below from _____ on _____, at
(Name of Person) (Date)

_____. I relinquished custody of the
(Place)

articles listed below to _____
(Name of Person)

on _____ at _____
(Date) (Place)

in the same condition as when I received them (or if different,

as noted below).

Description of Articles:

Changes in condition while in my custody:

Official Seal

_____
(Signature)

_____
(Title)

_____
(Place)

_____
(Date)

DEPARTMENT OF STATE
WASHINGTON
January 6, 1994

Excellency:

I have the honor to acknowledge receipt of Your Excellency's Note of today's date, which reads as follows:

"I have the honour to refer to the Treaty between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland on Mutual Legal Assistance in Criminal Matters (the Treaty) signed today. I have the honour to propose that the Treaty be applied in accordance with the provisions set out in this Note.

(a) The term 'important public policy' in Article 3(1)(a) would include a Requested Party's policy of opposing the exercise of jurisdiction which in its view is extraterritorial and objectionable.

(b) Article 3(1)(b) shall not affect the availability of assistance in respect of other participants in the offense for which assistance is requested who would not be entitled to be discharged on the grounds of previous acquittal or conviction.

His Excellency
Sir Robin W. Renwick, K.C.M.G.,
Ambassador of the United Kingdom
of Great Britain and Northern Ireland.

(c) Article 7(2) shall not preclude the use or disclosure of information to the extent that there is an obligation to do so under the Constitution or law of the Requesting Party in a criminal prosecution. Any such proposed disclosure shall be notified by the Requesting Party to the Requested Party in advance.

(d) The Treaty shall not apply to anti-trust or competition law investigations or proceedings at this time. The Central Authorities may at their discretion treat as proceedings for the purpose of this Treaty such anti-trust or competition law matters, or anti-trust or competition law matters generally, as may be agreed in writing between the Parties at a later date.

(e) 'Compulsory measures' in Article 18, including in the case of the United States a grand jury subpoena, are those measures that require an action to be performed by any person located in the territory of the Party not issuing the measure and that fall within the following categories:

(i) any measure for the production of evidence located in the territory of the Party not issuing the measure;

(ii) any measure relating to assets in the territory of the Party not issuing the measure; or

(iii) any measure compelling a natural person who is in the territory of one Party to make a personal appearance in the territory of the other Party unless:

a) the Party compelling the appearance has lawfully obtained jurisdiction over that person; or

b) the person is a national of the Party compelling the appearance,

without prejudice to whether a Party objects to these compulsory measures or the jurisdiction claimed by the other Party. The Central Authorities may add to or amend the categories referred to above as may be agreed in writing between the Parties.

(f) In the spirit of cooperation, mutual respect, and good will, and in the interests of facilitating the cooperative use of the Treaty with respect to proceedings that fall within its scope and of avoiding measures which could result in a conflict of laws, policies, or national interests, the United States Government shall take several practical measures to reduce the number of instances in which conflict may be anticipated. In particular, the United States Department of Justice, on behalf of the United States Government, shall:

(i) instruct all federal prosecutors not to seek compulsory measures, as referred to in Article 18(2), with respect to any matter for which assistance could be granted under the Treaty unless the United States Central Authority has concluded that the provisions of Article 18 of the Treaty have been satisfied;

(ii) instruct all federal prosecutors not to enforce any compulsory measures, as referred to in Article 18(2), with respect to any matter for which assistance could be granted under the Treaty, unless the United States Central Authority has concluded that the provisions of Article 18 have been satisfied; and

(iii) undertake to discourage the issue of compulsory measures by other United States Government agencies for evidence located in the United Kingdom in any matter covered by the Treaty by advising all such agencies not to seek such process without consultation and coordination with the United States Central Authority.

If the above proposal is acceptable to the Government of the United States of America, I have the honour to propose that this Note and Your Excellency's reply to that effect shall constitute an agreement between our two Governments, which shall enter into force on the date of entry into force of the Treaty.

I have the honour to convey to Your Excellency the assurance of my highest consideration."

I have the further honor to inform Your Excellency that the foregoing proposals are acceptable to the Government of the United States of America and that Your Excellency's Note and this Note shall constitute an agreement between our two Governments, which shall enter into force on the date of entry into force of the Treaty.

For The Secretary of State:

British Embassy
Washington D.C.

His Excellency
Warren M Christopher
Secretary of State
of the United States of America

6 January 1994

Your Excellency,

I have the honour to refer to the Treaty between the Government of The United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland on Mutual Legal Assistance in Criminal Matters (the Treaty) signed today. I have the honour to propose that the Treaty be applied in accordance with the provisions set out in this Note.

(a) The term "important public policy" in Article 3(1)(a) would include a Requested Party's policy of opposing the exercise of jurisdiction which in its view is extraterritorial and objectionable.

(b) Article 3(1)(b) shall not affect the availability of assistance in respect of other participants in the offence for which assistance is requested who would not be entitled to be discharged on the grounds of previous acquittal or conviction.

(c) Article 7(2) shall not preclude the use or disclosure of information to the extent that there is an obligation to do so under the Constitution or law of the Requesting Party in a criminal prosecution. Any such proposed disclosure shall be notified by the Requesting Party to the Requested Party in advance.

(d) The Treaty shall not apply to anti-trust or competition law investigations or proceedings at this time. The Central Authorities may at their discretion treat as proceedings for the purpose of this Treaty such anti-trust or competition law matters, or anti-trust or competition law matters generally, as may be agreed in writing between the Parties at a later date.

(e) "Compulsory measures" in Article 18, including in the case of the United States a grand jury subpoena, are those measures that require an action to be performed by any person located in the territory of the Party not issuing the measure and that fall within the following categories:

(i) any measure for the production of evidence located in the territory of the Party not issuing the measure;

(ii) any measure relating to assets in the territory of the Party not issuing the measure; or

(iii) any measure compelling a natural person who is in the territory of one Party to make a personal appearance in the territory of the other Party unless:

a) the Party compelling the appearance has lawfully obtained jurisdiction over that person; or

b) the person is a national of the Party compelling the appearance,

without prejudice to whether a Party objects to these compulsory measures or the jurisdiction claimed by the other Party.

The Central Authorities may add to or amend the categories referred to above as may be agreed in writing between the Parties.

(f) In the spirit of cooperation, mutual respect, and good will, and in the interests of facilitating the cooperative use of the Treaty with respect to proceedings that fall within its scope and of avoiding measures which could result in a conflict of laws, policies, or national interests, the United States Government shall take several practical measures to reduce the number of instances in which conflict may be anticipated. In particular, the United States Department of Justice, on behalf of the United States Government, shall:

(i) instruct all federal prosecutors not to seek compulsory measures, as referred to in Article 18(2), with respect to any matter for which assistance could be granted under the Treaty unless the United States Central Authority has concluded that the provisions of Article 18 of the Treaty have been satisfied;

(ii) instruct all federal prosecutors not to enforce any compulsory measures, as referred to in Article 18(2), with respect to any matter for which assistance could be granted under the Treaty, unless the United States Central Authority has concluded that the provisions of Article 18 have been satisfied; and

(iii) undertake to discourage the issue of compulsory measures by other United States Government agencies for evidence located in the United Kingdom in any matter covered by the Treaty by advising all such agencies not to seek such process without consultation and coordination with the United States Central Authority.

If the above proposal is acceptable to the Government of the United States of America, I have the honour to propose that this Note and Your Excellency's reply to that effect shall constitute an agreement between our two Governments, which shall enter into force on the date of entry into force of the Treaty.

I have the honour to convey to
Your Excellency the assurance of
my highest consideration.

ROBIN W RENWICK

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1. Treaties In Force to Which the United States is a Party

a. Convention on the Marking of Plastic Explosives for the Purpose of Identification, March 1, 1991 *

* Entered into force, including for the United States, June 21, 1998. No TIAS number exists. Status information appears at Document M.5.q., following.

CONVENTION

on the Marking of Plastic Explosives for the Purpose of Detection

THE STATES PARTIES TO THIS CONVENTION,

CONSCIOUS of the implications of acts of terrorism for international security;

EXPRESSING deep concern regarding terrorist acts aimed at destruction of aircraft, other means of transportation and other targets;

CONCERNED that plastic explosives have been used for such terrorist acts;

CONSIDERING that the marking of such explosives for the purpose of detection would contribute significantly to the prevention of such unlawful acts;

RECOGNIZING that for the purpose of deterring such unlawful acts there is an urgent need for an international instrument obliging States to adopt appropriate measures to ensure that plastic explosives are duly marked;

CONSIDERING United Nations Security Council Resolution 635 of 14 June 1989, and United Nations General Assembly Resolution 44/29 of 4 December 1989 urging the International Civil Aviation Organization to intensify its work on devising an international regime for the marking of plastic or sheet explosives for the purpose of detection;

BEARING IN MIND Resolution A27-8 adopted unanimously by the 27th Session of the Assembly of the International Civil Aviation Organization which endorsed with the highest and overriding priority the preparation of a new international instrument regarding the marking of plastic or sheet explosives for detection;

NOTING with satisfaction the role played by the Council of the International Civil Aviation Organization in the preparation of the Convention as well as its willingness to assume functions related to its implementation;

HAVE AGREED AS FOLLOWS:

Article I

For the purposes of this Convention:

1. "Explosives" mean explosive products, commonly known as "plastic explosives", including explosives in flexible or elastic sheet form, as described in the Technical Annex to this Convention.

2. "Detection agent" means a substance as described in the Technical Annex to this Convention which is introduced into an explosive to render it detectable.

3. "Marking" means introducing into an explosive a detection agent in accordance with the Technical Annex to this Convention.

4. "Manufacture" means any process, including reprocessing, that produces explosives.

5. "Duly authorized military devices" include, but are not restricted to, shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades and perforators manufactured exclusively for military or police purposes according to the laws and regulations of the State Party concerned.

6. "Producer State" means any State in whose territory explosives are manufactured.

Article II

Each State Party shall take the necessary and effective measures to prohibit and prevent the manufacture in its territory of unmarked explosives.

Article III

1. Each State Party shall take the necessary and effective measures to prohibit and prevent the movement into or out of its territory of unmarked explosives.

2. The preceding paragraph shall not apply in respect of movements for purposes not inconsistent with the objectives of this Convention, by authorities of a State Party performing military or police functions, of unmarked explosives under the control of that State Party in accordance with paragraph 1 of Article IV.

Article IV

1. Each State Party shall take the necessary measures to exercise strict and effective control over the possession and transfer of possession of unmarked explosives which have been manufactured in or brought into its territory prior to the entry into force of this Convention in respect of that State, so as to prevent their diversion or use for purposes inconsistent with the objectives of this Convention.

2. Each State Party shall take the necessary measures to ensure that all stocks of those explosives referred to in paragraph 1 of this Article not held by its authorities performing military or police functions are destroyed or consumed for purposes not inconsistent with the objectives of this Convention, marked or rendered permanently ineffective, within a period of three years from the entry into force of this Convention in respect of that State.

3. Each State Party shall take the necessary measures to ensure that all stocks of those explosives referred to in paragraph 1 of this Article held by its authorities performing military or police functions and that are not incorporated as an integral part of duly authorized military devices are destroyed or consumed for purposes not inconsistent with the objectives of this Convention, marked or rendered permanently ineffective, within a period of fifteen years from the entry into force of this Convention in respect of that State.

4. Each State Party shall take the necessary measures to ensure the destruction, as soon as possible, in its territory of unmarked explosives which may be discovered therein and which are not referred to in the preceding paragraphs of this Article, other than stocks of unmarked

explosives held by its authorities performing military or police functions and incorporated as an integral part of duly authorized military devices at the date of the entry into force of this Convention in respect of that State.

5. Each State Party shall take the necessary measures to exercise strict and effective control over the possession and transfer of possession of the explosives referred to in paragraph II of Part I of the Technical Annex to this Convention so as to prevent their diversion or use for purposes inconsistent with the objectives of this Convention.

6. Each State Party shall take the necessary measures to ensure the destruction, as soon as possible, in its territory of unmarked explosives manufactured since the coming into force of this Convention in respect of that State that are not incorporated as specified in paragraph II d) of Part I of the Technical Annex to this Convention and of unmarked explosives which no longer fall within the scope of any other sub-paragraphs of the said paragraph II.

Article V

1. There is established by this Convention an International Explosives Technical Commission (hereinafter referred to as "the Commission") consisting of not less than fifteen nor more than nineteen members appointed by the Council of the International Civil Aviation Organization (hereinafter referred to as "the Council") from among persons nominated by States Parties to this Convention.

2. The members of the Commission shall be experts having direct and substantial experience in matters relating to the manufacture or detection of, or research in, explosives.

3. Members of the Commission shall serve for a period of three years and shall be eligible for re-appointment.

4. Sessions of the Commission shall be convened, at least once a year at the Headquarters of the International Civil Aviation Organization, or at such places and times as may be directed or approved by the Council.

5. The Commission shall adopt its rules of procedure, subject to the approval of the Council.

Article VI

1. The Commission shall evaluate technical developments relating to the manufacture, marking and detection of explosives.

2. The Commission, through the Council, shall report its findings to the States Parties and international organizations concerned.

3. Whenever necessary, the Commission shall make recommendations to the Council for amendments to the Technical Annex to this Convention. The Commission shall endeavour to take its decisions on such recommendations by consensus. In the absence of consensus the Commission shall take such decisions by a two-thirds majority vote of its members.

4. The Council may, on the recommendation of the Commission, propose to States Parties amendments to the Technical Annex to this Convention.

Article VII

1. Any State Party may, within ninety days from the date of notification of a proposed amendment to the Technical Annex to this Convention, transmit to the Council its comments. The Council shall communicate these comments to the Commission as soon as possible for its consideration. The Council shall invite any State Party which comments on or objects to the proposed amendment to consult the Commission.

2. The Commission shall consider the views of States Parties made pursuant to the preceding paragraph and report to the Council. The Council, after consideration of the Commission's report, and taking into account the nature of the amendment and the comments of States Parties, including producer States, may propose the amendment to all States Parties for adoption.

3. If a proposed amendment has not been objected to by five or more States Parties by means of written notification to the Council within ninety days from the date of notification of the amendment by the Council, it shall be deemed to have been adopted, and shall enter into force one hundred and eighty days thereafter or after such other period as specified in the proposed amendment for States Parties not having expressly objected thereto.

4. States Parties having expressly objected to the proposed amendment may, subsequently, by means of the deposit of an instrument of acceptance or approval, express their consent to be bound by the provisions of the amendment.

5. If five or more States Parties have objected to the proposed amendment, the Council shall refer it to the Commission for further consideration.

6. If the proposed amendment has not been adopted in accordance with paragraph 3 of this Article, the Council may also convene a conference of all States Parties.

Article VIII

1. States Parties shall, if possible, transmit to the Council information that would assist the Commission in the discharge of its functions under paragraph 1 of Article VI.

2. States Parties shall keep the Council informed of measures they have taken to implement the provisions of this Convention. The Council shall communicate such information to all States Parties and international organizations concerned.

Article IX

The Council shall, in co-operation with States Parties and international organizations concerned, take appropriate measures to facilitate the implementation of this Convention, including the provision of technical assistance and measures for the exchange of information relating to technical developments in the marking and detection of explosives.

Article X

The Technical Annex to this Convention shall form an integral part of this Convention.

Article XI

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may, at the time of signature, ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other States Parties shall not be bound by the preceding paragraph with respect to any State Party having made such a reservation.

3. Any State Party having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary.

Article XII

Except as provided in Article XI no reservation may be made to this Convention.

Article XIII

1. This Convention shall be open for signature in Montreal on 1 March 1991 by States participating in the International Conference on Air Law held at Montreal from 12 February to 1 March 1991. After 1 March 1991 the Convention shall be open to all States for signature at the Headquarters of the International Civil Aviation Organization in Montreal until it enters into force in accordance with paragraph 3 of this Article. Any State which does not sign this Convention may accede to it at any time.

2. This Convention shall be subject to ratification, acceptance, approval or accession by States. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Civil Aviation Organization, which is hereby designated the Depositary. When depositing its instrument of ratification, acceptance, approval or accession, each State shall declare whether or not it is a producer State.

3. This Convention shall enter into force on the sixtieth day following the date of deposit of the thirty-fifth instrument of ratification, acceptance, approval or accession with the Depositary, provided that no fewer than five such States have declared pursuant to paragraph 2 of this Article that they are producer States. Should thirty-five such instruments be deposited prior to the deposit of their instruments by five producer States, this Convention shall enter into force on the sixtieth day following the date of deposit of the instrument of ratification, acceptance, approval or accession of the fifth producer State.

4. For other States, this Convention shall enter into force sixty days following the date of deposit of their instruments of ratification, acceptance, approval or accession.

5. As soon as this Convention comes into force, it shall be registered by the Depositary pursuant to Article 102 of the Charter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).

Article XIV

The Depositary shall promptly notify all signatories and States Parties of:

1. each signature of this Convention and date thereof;

2. each deposit of an instrument of ratification, acceptance, approval or accession and date thereof, giving special reference to whether the State has identified itself as a producer State;

3. the date of entry into force of this Convention;

4. the date of entry into force of any amendment to this Convention or its Technical Annex;

5. any denunciation made under Article XV; and

6. any declaration made under paragraph 2 of Article XI.

Article XV

1. Any State Party may denounce this Convention by written notification to the Depositary.

2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the Depositary.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their Governments, have signed this Convention.

DONE at Montreal, this first day of March, one thousand nine hundred and ninety-one, in one original, drawn up in five authentic texts in the English, French, Russian, Spanish and Arabic languages.

TECHNICAL ANNEX

PART 1: DESCRIPTION OF EXPLOSIVES

I. The explosives referred to in paragraph 1 of Article 1 of this Convention are those that:

a) are formulated with one or more high explosives which in their pure form have a vapour pressure less than 10^{-4} Pa at a temperature of 25°C;

b) are formulated with a binder material; and

c) are, as a mixture, malleable or flexible at normal room temperature.

II. The following explosives, even though meeting the description of explosives in paragraph 1 of this Part, shall not be considered to be explosives as long as they continue to be held or used for the purposes specified below or remain incorporated as there specified, namely those explosives that:

a) are manufactured, or held, in limited quantities solely for use in duly authorized research, development or testing of new or modified explosives;

b) are manufactured, or held, in limited quantities solely for use in duly authorized training in explosives detection and/or development or testing of explosives detection equipment;

c) are manufactured, or held, in limited quantities solely for duly authorized forensic science purposes; or

d) are destined to be and are incorporated as an integral part of duly authorized military devices in the territory of the producer State within three years after the coming into force of this Convention in respect of that State. Such devices produced in this period of three years shall be deemed to be duly authorized military devices within paragraph 4 of Article IV of this Convention.

III. In this Part:

"duly authorized" in paragraph II a), b) and c) means permitted according to the laws and regulations of the State Party concerned; and

"high explosives" include but are not restricted to cyclotetramethylenetetranitramine (HMX), pentaerythritol tetranitrate (PETN) and cyclotrimethylenetrinitramine (RDX).

PART 2: DETECTION AGENTS

A detection agent is any one of those substances set out in the following Table. Detection agents described in this Table are intended to be used to enhance the detectability of explosives by vapour detection means. In each case, the introduction of a detection agent into an explosive shall be done in such a manner as to achieve homogeneous distribution in the finished product. The minimum concentration of a detection agent in the finished product at the time of manufacture shall be as shown in the said Table.

Table

Name of detection agent	Molecular formula	Molecular weight	Minimum concentration
Ethylene glycol dinitrate (EGDN)	$C_2H_4(NO_3)_2$	152	0.2% by mass
2,3-Dimethyl-2,3-dinitrobutane (DMNB)	$C_6H_{12}(NO_2)_2$	176	0.1% by mass
para-Mononitrotoluene (p-MNT)	$C_7H_7NO_2$	137	0.5% by mass
ortho-Mononitrotoluene (o-MNT)	$C_7H_7NO_2$	137	0.5% by mass

Any explosive which, as a result of its normal formulation, contains any of the designated detection agents at or above the required minimum concentration level shall be deemed to be marked.

NOTE: Status of signatories and ratifiers is found on page 62 of Document J.4.e. below.

b. I.M.O. Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, with Related Protocol, March 10, 1988 *

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF MARITIME NAVIGATION, AND THE ACCOMPANYING PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF FIXED PLATFORMS LOCATED ON THE CONTINENTAL SHELF, BOTH SIGNED AT ROME ON MARCH 10, 1988

JANUARY 4, 1989.—Convention was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

* Source: Treaty Document 101-1; Entered into force March 1, 1992; for the United States March 6, 1995. No TIAS Number. Status information appears at Document M.5.q., following.

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *January 3, 1989.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, and the related Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, signed at Rome on March 10, 1988. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Convention and Protocol.

The seizure of the Italian cruise ship *Achille Lauro* in 1985, and the murder of American passenger Leon Klinghoffer, demonstrated that no country, or form of transportation, is immune from the criminal savagery of those who engage in terrorist acts. This Convention is aimed at ensuring that those who engage in such acts on board or against ships engaged in navigation are brought to justice. The Protocol would do the same with respect to acts on or against fixed platforms on the continental shelf. Modeled on earlier conventions dealing with aircraft hijacking and sabotage (to which the United States is a party), they include provisions requiring States to provide severe punishment for such offenses, and to extradite or prosecute those who commit them.

Work on the Convention and Protocol began in 1986 under the auspices of the International Maritime Organization on the basis of an initial draft cosponsored by the Governments of Italy, Austria and Egypt. That work was completed, and the Convention and Protocol adopted by consensus, at an international conference in Rome in March 1988. The United States and 22 other States signed the Convention at that time, and the United States and 20 other States signed the Protocol. It is clear that the Convention already has broad support in the international community, and it is hoped that all States will join in this major step to deter acts against the safety of maritime navigation.

I recommend, therefore, that the Senate give early and favorable consideration to this Convention and Protocol and give its advice and consent to ratification.

RONALD REAGAN.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, DC, November 21, 1988.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, and the accompanying protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, both signed at Rome on March 10, 1988. I recommend that the Treaty and Protocol be transmitted to the Senate for its advice and consent to ratification.

The Convention and Protocol provide an important new basis under international law for combatting acts of terrorist violence on board ships and fixed platforms. Negotiation of the Convention began in mid-1986, after the Assembly of the International Maritime Organization (IMO) called for development of a new international instrument for the suppression of unlawful acts of violence which endanger the safety of maritime navigation. The Assembly's action was taken in the wake of the October 1985 *Achille Lauro* incident, which resulted in the murder of an American citizen, Leon Klinghoffer.

At the IMO's Council's direction, an Ad Hoc Preparatory Committee was convened within the IMO to consider an initial draft of the Convention cosponsored by the Governments of Italy, Austria and Egypt. The Ad Hoc Preparatory Committee met in March and May of 1987 and agreed upon a revised draft of the Convention, as well as upon the adoption of a separate Protocol concerning fixed platforms located on the continental shelf. These texts were further reviewed by the Assembly, as well as the IMO's Legal Committee and the Council. The final texts were adopted by consensus by the 76 nations represented at an International Conference on the Suppression of Unlawful Acts against the Safety of Maritime Navigation, held in Rome from March 1-10, 1988 under the auspices of the IMO. The positions taken by the U.S. delegation to the Conference, which were for the most part adopted, were coordinated with interested agencies and reviewed by interested members of the public.

The principal purpose of the Convention and Protocol is to ensure that individuals who commit acts of terrorist violence which endanger the safe navigation of a ship or the safety of a platform are either prosecuted in the stae in which they are found or extradited to another state for prosecution. Following the essential structure and approach of The Hague and Montreal Conventions in

the aviation field, the Convention and Protocol require states to establish certain offenses under their criminal law, to provide a basis for the exercise of criminal jurisdiction in specified circumstances, and to extradite or prosecute any alleged offender found within their territory. The Convention and Protocol thus fill a gap in the international legal regime governing acts of violence on board or against ships engaged in international maritime navigation as well as fixed platforms located on the continental shelf.

The major provisions of the Convention are as follows:

(1) *Scope of the Convention.*—The Convention applies to any ship (broadly defined to include vessels of any type not permanently attached to the seabed) which is navigating or is scheduled to navigate beyond the territorial waters of a single State. Exceptions are made for warships, State-owned or operated ships used for customs or police purposes or as naval auxiliaries, and ships which have been withdrawn from navigation or laid up. The sovereign immunity of warships and other public vessels is preserved. The Convention makes it an offense for a person unlawfully and intentionally to seize or exercise control over a ship by force, threat or intimidation; to perform an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of the ship; to destroy a ship or damage a ship or its cargo; to place a destructive device or substance on a ship; to damage or destroy maritime navigational facilities; to communicate information known to be false, thereby endangering the safe navigation of a ship; or to kill or injure any person in connection with the commission or attempted commission of any of these offenses. A person also commits an offense by attempting or abetting the commission of any of these offenses, or by threatening to commit certain of them.

(2) *Penalties and Jurisdiction.*—Each State Party is obliged to make the acts covered by the Convention punishable by appropriate penalties which take into account the grave nature of the offenses. Each State is required to establish its jurisdiction over offenses committed against or on board a ship flying its flag, in its territory including its territorial sea, and by its nationals. Each State may, at its option, also establish jurisdiction over offenses: which are committed by stateless persons habitually resident in its territory; during which one of its nationals is seized, threatened, killed or injured; or which are committed in an attempt to compel that State to do or abstain from doing any act.

(3) *Custody.*—Each State is obliged to take into custody an offender or alleged offender found in its territory or to take other measures to ensure that person's presence for such time as is necessary to enable criminal or extradition proceedings to be instituted. States Party are also obliged to take custody from the master of a ship of another State Party of any person reasonably believed to have committed one of the covered offenses; such States may, in turn, request that the flag State accept delivery of the person.

(4) *Extradition or Prosecution.*—The Convention amends existing extradition treaties between Parties to include the covered offenses as extraditable offenses and provides that they shall be extraditable offenses between States which do not make extradition conditional on an extradition treaty. If a State in which an offender is found does not extradite that person or deliver him or her to an-

other State Party for purposes of prosecution, that State is obliged "without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without delay to its competent authorities for the purpose of prosecution".

(5) *Reports.*—When a State has taken a person into custody, it must immediately notify those States which have established the required jurisdiction over the offenses, and any other interested States. States Party having reason to believe that a covered offense will be committed must immediately inform those States it believes would have established jurisdiction over such an offense. States Party must also inform the Secretary-General of any relevant information concerning the circumstances of an offense and measures taken in relation to an offender, including the results of any extradition or other legal proceeding.

(6) *Cooperation.*—The Convention requires States Party to afford each other the greatest measure of assistance in connection with criminal proceedings brought in respect of covered offenses, and to cooperate in the prevention of such offenses by taking practicable measure to prevent preparations in their territories for those offenses, by exchanging information, and by coordinating administrative and other preventative measures.

(7) *Limitations.*—The Convention explicitly provides that its provisions do not affect the immunities of warships and other Government ships operated for non-commercial purposes, or the rules of international law pertaining to the competence of States to exercise investigative or enforcement jurisdiction on board ships not flying their flag. In addition, the Convention does not exclude any criminal jurisdiction that may be exercised in accordance with national law.

Article 16 of the Convention, concerning dispute settlement, permits States Parties to submit disputes to the International Court of Justice in the event that those disputes cannot be settled by arbitration. It is my recommendation that, at the time of ratification, the United States exercise its right under paragraph 2 of that Article to declare, by means of reservation, that it does not consider itself bound to submit to the compulsory jurisdiction of the Court in respect of disputes arising under this Convention.

The Protocol applies the provisions of the Convention to offenses committed on board or against fixed platforms located on the continental shelf. The term "fixed platform" is defined to include an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources, or for other economic purposes. Thus, oil rigs, floating hotels, and similar platforms will be afforded the same protection by the Protocol as ships are afforded by the Convention.

The Convention will enter into force ninety days after the date on which fifteen States have signed without reservation or have deposited instruments of ratification, acceptance, approvel or accession. The Protocol may enter into force ninety days after the date on which three States have signed without reservation or deposited similar instruments, provided that the Convention must first be in force. A State may only become Party to the Protocol if it has become Party to the Convention.

VIII

Proposed legislation necessary to implement the Convention will be submitted to the Congress in the near future.

Respectfully submitted,

GEORGE P. SHULTZ.

CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF MARITIME NAVIGATION

The States Parties to this Convention:

Having in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promoting of friendly relations and co-operation among States,

Recognizing in particular that everyone has the right to life, liberty and security of person, as set out in the University Declaration of Human Rights and the International Covenant on Civil and Political Rights,

Deeply concerned about the world-wide escalation of acts of terrorism in all its forms, which endanger or take innocent human lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings,

Considering that unlawful acts against the safety of maritime navigation jeopardize the safety of persons and property, seriously affect the operation of maritime services, and undermine the confidence of the people of the world in the safety of maritime navigation,

Considering that the occurrence of such acts is a matter of grave concern to the international community as a whole,

Being convinced of the urgent need to develop international co-operation between States in devising and adopting effective and practical measures for the prevention of all unlawful acts against the safety of maritime navigation, and the prosecution and punishment of their perpetrators,

Recalling resolution 40/61 of the General Assembly of the United Nations of 9 December 1985 which, *inter alia,* "urges all States unilaterally and in co-operation with other States, as well as relevant United Nations organs, to contribute to the progressive elimination of causes underlying international terrorism and to pay special attention to all situations, including colonialism, racism and situations involving mass and flagrant violations of human rights and fundamental freedoms and those involving alien occupation, that may give rise to international terrorism and may endanger international peace and security",

Recalling further that resolution 40/61 "unequivocally condemns, as criminal, all acts, methods and practices of terrorism wherever and by whomever committed, including those which jeopardize friendly relations among States and their security",

Recalling also that by resolution 40/61, the International Maritime Organization was invited to "study the problem of terrorism aboard or against ships with a view to making recommendations on appropriate measures",

Having in mind resolution A.584(14) of 20 November 1985, of the Assembly of the International Maritime Organization, which called

for development of measures to prevent unlawful acts which threaten the safety of ships and the security of their passengers and crews,

Noting that acts of the crews which are subject to normal shipboard discipline are outside the purview of this Convention,

Affirming the desirability of monitoring rules and standards relating to the prevention and control of unlawful acts against ships and persons on board ships, with a view to updating them as necessary, and, to this effect, taking note with satisfaction of the Measures to Prevent Unlawful Acts Against Passengers and Crews on Board Ships, recommended by the Maritime Safety Committee of the International Maritime Organization,

Affirming further that matters not regulated by this Convention continue to be governed by the rules and principles of general international law,

Recognizing the need for all States, in combating unlawful acts against the safety of maritime navigation, strictly to comply with rules and principles of general international law.

Have agreed as follows:

ARTICLE 1

For the purposes of this Convention, "ship" means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles, or any other floating craft.

ARTICLE 2

1. This Convention does not apply to:

(a) a warship; or

(b) a ship owned or operated by a State when being used as a naval auxiliary or for customs or police purposes; or

(c) a ship which has been withdrawn from navigation or laid up.

2. Nothing in this Convention affects the immunities of warships and other government ships operated for non-commercial purposes.

ARTICLE 3

1. Any person commits an offence if that person unlawfully and intentionally:

(a) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation; or

(b) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship; or

(c) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship; or

(d) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship; or

(e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safe navigation of a ship; or

(f) communicates information which he knows to be false, thereby endangering the safe navigation of a ship; or

(g) injures or kills any person, in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (f).

2. Any person also commits an offence if that person:

(a) attempts to commit any of the offences set forth in paragraph 1; or

(b) abets the commission of any of the offences set forth in paragraph 1 perpetrated by any person or is otherwise an accomplice of a person who commits such an offence; or

(c) threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraph 1, subparagraphs (b), (c) and (e), if that threat is likely to endanger the safe navigation of the ship in question.

ARTICLE 4

1. This Convention applies if the ship is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single State, or the lateral limits of its territorial sea with adjacent States.

2. In cases where the Convention does not apply pursuant to paragraph 1, it nevertheless applies when the offender or the alleged offender is found in the territory of a State Party other than the State referred to in paragraph 1.

ARTICLE 5

Each State Party shall make the offences set forth in article 3 punishable by appropriate penalties which take into account the grave nature of those offences.

ARTICLE 6

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 3 when the offence is committed:

(a) against or on board a ship flying the flag of the State at the time the offence is committed; or

(b) in the territory of that State, including its territorial sea; or

(c) by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) it is committed by a stateless person whose habitual residence is in that State; or

(b) during its commission a national of that State is seized, threatened, injured or killed; or

(c) it is committed in an attempt to compel that State to do or abstain from doing any act.

3. Any State Party which has established jurisdiction mentioned in paragraph 2 shall notify the Secretary-General of the International Maritime Organization (hereinafter referred to as "the Secretary-General"). If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General.

4. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 3 in cases where the alleged offender is present in its territory and it does not extradite him to any of the States Parties which have established their jurisdiction to accordance with paragraphs 1 and 2 of this article.

ARTICLE 7

1. Upon being satisfied that the circumstances so warrant, any State Party in the territory of which the offender or the alleged offender is present shall, in accordance with its law, take him into custody or take other measures to ensure his presence for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary inquiry into the facts, in accordance with its own legislation.

3. Any person regarding whom the measures referred to in paragraph 1 are being taken shall be entitled to:

(a) communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to establish such communication or, if he is a stateless person, the State in the territory of which he has his habitual residence;

(b) be visited by a representative of that State.

4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or the alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. When a State Party, pursuant to this article, has taken a person into custody, it shall immediately notify the States which have established jurisdiction in accordance with article 6, paragraph 1 and, if it considers it advisable, any other interested States, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

ARTICLE 8

1. The master of a ship of a State Party (the "flag State") may deliver to the authorities of any other State Party (the "receiving State") any person who he has reasonable grounds to believe has committed one of the offences set forth article 3.

2. The flag State shall ensure that the master of its ship is obliged, whenever practicable, and if possible before entering the territorial sea of the receiving State carrying on board any person

whom the master intends to deliver in accordance with paragraph 1, to give notification to the authorities of the receiving State of his intention to deliver such person and the reasons therefor.

3. The receiving State shall accept the delivery, except where it has grounds to consider that the Convention is not applicable to the acts giving rise to the delivery, and shall proceed in accordance with the provisions of article 7. Any refusal to accept a delivery shall be accompanied by a statement of the reasons for refusal.

4. The flag State shall ensure that the master of its ship is obliged to furnish the authorities of the receiving State with the evidence in the master's possession which pertains to the alleged offence.

5. A receiving State which has accepted the delivery of a person in accordance with paragraph 3 may, in turn, request the flag State to accept delivery of that person. The flag State shall consider any such request, and if it accedes to the request it shall proceed in accordance with article 7. If the flag State declines a request, it shall furnish the receiving State with a statement of the reasons therefor.

ARTICLE 9

Nothing in this Convention shall affect in any way the rules of international law pertaining to the competence of States to exercise investigative or enforcement jurisdiction on board ships not flying their flag.

ARTICLE 10

1. The State Party in the territory of which the offender or the alleged offender is found shall, in cases to which article 6 applies, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in article 3 shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided for such proceedings by the law of the State in the territory of which he is present.

ARTICLE 11

1. The offences set forth in article 3 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as

a legal basis for extradition in respect of the offences set forth in article 3. Extradition shall be subject to the other conditions provided by the law of the requested State Party.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 3 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the offences set forth in article 3 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in a place within the jurisdiction of the State Party requesting extradition.

5. A State Party which receives more than one request for extradition from States which have established jurisdiction in accordance with article 7 and which decides not to prosecute shall, in selecting the State to which the offender or alleged offender is to be extradited, pay due regard to the interests and responsibilities of the State Party whose flag the ship was flying at the time of the commission of the offence.

6. In considering a request for the extradition of an alleged offender pursuant to this Convention, the requested State shall pay due regard to whether his rights as set forth in article 7, paragraph 3, can be effected in the requesting State.

7. With respect to the offences as defined in this Convention, the provisions of all extradition treaties and arrangements applicable between States Parties are modified as between States Parties to the extent that they are incompatible with this Convention.

ARTICLE 12

1. State Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in article 3 including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 in conformity with any treaties on mutual assistance that may exist between them. In the absence of such treaties, States Parties shall afford each other assistance in accordance with their national law.

ARTICLE 13

1. States Parties shall co-operate in the prevention of the offences set forth in article 3, particularly by:

(a) taking all practicable measures to prevent preparations in their respective territories for the commission of those offences within or outside their territories;

(b) exchanging information in accordance with their national law, and co-ordinating administrative and other measures taken as appropriate to prevent the commission of offences set forth in article 3.

2. When, due to the commission of an offence set forth in article 3, the passage of a ship has been delayed or interrupted, any State Party in whose territory the ship or passengers or crew are present

shall be bound to exercise all possible efforts to avoid a ship, its passengers, crew or cargo being unduly detained or delayed.

ARTICLE 14

Any State Party having reason to believe that an offence set forth in article 3 will be committed shall, in accordance with its national law, furnish as promptly as possible any relevant information in its possession to those States which it believes would be the States having established jurisdiction in accordance with article 6.

ARTICLE 15

1. Each State Party shall, in accordance with its national law, provide to the Secretary-General, as promptly as possible, any relevant information in its possession concerning:

(a) the circumstances of the offence;

(b) the action taken pursuant to article 13, paragraph 2;

(c) the measures taken in relation to the offender or the alleged offender and, in particular, the results of any extradition proceedings or other legal proceedings.

2. The State Party where the alleged offender is prosecuted shall, in accordance with its national law, communicate the final outcome of the prodeedings to the Secretary-General.

3. The information transmitted in accordance with paragraphs 1 and 2 shall be communicated by the Secretary-General to all States Parties, to Members of the International Maritime Organization (hereinafter referred to as "the Organization"), to the other States concerned, and to the appropriate international intergovernmental organizations.

ARTICLE 16

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by any or all of the provisions of paragraph 1. The other States Parties shall not be bound by those provisions with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 may, at any time, withdraw that reservation by notification to the Secretary-General.

ARTICLE 17

1. This Convention shall be open for signature at Rome on 10 March 1988 by States participating in the International Conference on the Suppression of Unlawful Acts against the Safety of Maritime Navigation and at the Headquarters of the Organization by

all States from 14 March 1988 to 9 March 1989. It shall thereafter remain open for accession.

2. States may express their consent to be bound by this Convention by:

(a) signature without reservation as to ratification, acceptance or approval; or

(b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(c) accession.

3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

ARTICLE 18

1. This Convention shall enter into force ninety days following the date on which fifteen States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession in respect thereof.

2. For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Convention after the conditions for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

ARTICLE 19

1. This Convention may be denounced by any State Party at any time after the expiry of one year from the date on which this Convention enters into force for that State.

2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the receipt of the instrument of denunciation by the Secretary-General.

ARTICLE 20

1. A conference for the purpose of revising or amending this Convention may be convened by the Organization.

2. The Secretary-General shall convene a conference of the States Parties to this Convention for revising or amending the Convention, at the request of one third of the States Parties, or ten States Parties, whichever is the higher figure.

3. Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.

ARTICLE 21

1. This Convention shall be deposited with the Secretary-General.

2. The Secretary-General shall:

(a) inform all States which have signed this Convention or acceded thereto, and all Members of the Organization, of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;

(ii) the date of the entry into force of this Convention;

(iii) the deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect;

(iv) the receipt of any declaration or notification made under this Convention;

(b) transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.

3. As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

ARTICLE 22

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

In witness whereof the undersigned being duly authorized by their respective Governments for that purpose have signed this Convention.

Done at Rome this tenth day of March one thousand nine hundred and eighty-eight.

Certified true copy in the English, French and Spanish languages of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988, the original of which is deposited with the Secretary-General of the International Maritime Organization.

For the Secretary-General of the International Maritime Organization:

——— ———.

PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF FIXED PLATFORMS LOCATED ON THE CONTINENTAL SHELF

The States Parties to this Protocol,

Being parties to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation,

Recognizing that the reasons for which the Convention was elaborated also apply to fixed platforms located on the continental shelf,

Taking account of the provisions of that Convention,

Affirming that matters not regulated by this Protocol continue to be governed by the rules and princples of general international law,

Have agreed as follows:

ARTICLE 1

1. The provisions of articles 5 and 7 and of articles 10 to 16 of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (hereinafter referred to as "the Convention") shall also apply *mutatis mutandis* to the offences set forth in article 2 of this Protocol where such offences are committed on board or against fixed platforms located on the continental shelf.

2. In cases where this Protocol does not apply pursuant to paragraph 1, it nevertheless applies when the offender or the alleged offender is found in the territory of a State Party other than the State in whose internal waters or territorial sea the fixed platform is located.

3. For the purposes of this Protocol, "fixed platform" means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

ARTICLE 2

1. Any person commits an offence if that person unlawfully and intentionally:

(a) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation; or

(b) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety; or

(c) destroys a fixed platform or causes damage to it which is likely to endanger its safety; or

(d) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety; or

(e) injures or kills any person in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (d).

2. Any person also commits an offence if that person:

(a) attempts to commit any of the offences set forth in paragraph 1; or

(b) abets the commission of any such offences perpetrated by any person or is otherwise an accomplice of a person who commits such an offence; or

(c) threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridicial person to do or refrain from doing any act, to commit any of the offences set forth in paragraph 1, subparagraphs (b) and (c), if that threat is likely to endanger the safety of the fixed platform.

ARTICLE 3

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when the offence is committed:

(a) against or on board a fixed platform while it is located on the continental shelf of that State; or

(b) by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) it is committed by a stateless person whose habitual residence is in that State;

(b) during its commission a national of that State is seized, threatened, injured or killed; or

(c) it is committed in an attempt to compel that State to do or abstain from doing any act.

3. Any State Party which has established jurisdiction mentioned in paragraph 2 shall notify the Secretary-General of the International Maritime Organization (hereinafter referred to as "the Secretary-General"). If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General.

4. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite him to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2 of this article.

5. This Protocol does not exclude any criminal jurisdiction exercised in accordance with national law.

ARTICLE 4

Nothing in this Protocol shall affect in any way the rules of international law pertaining to fixed platforms located on the continental shelf.

ARTICLE 5

1. This Protocol shall be open for signature at Rome on 10 March 1988 and at the Headquarters of the International Maritime Orga-

nization (hereinafter referred to as "the Organization") from 14 March 1988 to 9 March 1989 by any State which has signed the Convention. It shall thereafter remain open for accession.

2. States may express their consent to be bound by this Protocol by:

(a) signature without reservation as to ratification, acceptance or approval; or

(b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(c) accession.

3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

4. Only a State which has signed the Convention without reservation as to ratification, acceptance or approval, or has ratified, accepted, approved or acceded to the Convention may become a Party to this Protocol.

ARTICLE 6

1. This Protocol shall enter into force ninety days following the date on which three States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession in respect thereof. However, this Protocol shall not enter into force before the Convention has entered into force.

2. For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Protocol after the conditions for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

ARTICLE 7

1. This Protocol may be denounced by any State Party at any time after the expiry of one year from the date on which this Protocol enters into force for that State.

2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the receipt of the instrument of denunciation by the Secretary-General.

4. A denunciation of the Convention by a State Party shall be deemed to be a denunciation of this Protocol by that Party.

ARTICLE 8

1. A conference for the purpose of revising or amending this Protocol may be convened by the Organization.

2. The Secretary-General shall convene a conference of the States Parties to this Protocol for revising or amending the Protocol, at the request of one third of the States Parties, or five States Parties, whichever is the higher figure.

3. Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment

to this Protocol shall be deemed to apply to the Protocol as amended.

ARTICLE 9

1. This Protocol shall be deposited with the Secretary-General.
2. The Secretary-General shall:
(a) inform all States which have signed this Protocol or acceded thereto, and all Members of the Organization, of:
(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;
(ii) the date of entry into force of this Protocol;
(iii) the deposit of any instrument of denunciation of this Protocol together with the date on which it is received and the date on which the denunciation takes effect;
(iv) the receipt of any declaration or notification made under this Protocol or under the Convention, concerning this Protocol;
(b) transmit certified true copies of this Protocol to all States which have signed this Protocol or acceded thereto.
3. As soon as this Protocol enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretary-General of the United States for registration and publication in accordance with Article 102 of the Charter of the United Nations.

ARTICLE 10

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

In witness whereof the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Protocol.

Done at Rome this tenth day of March one thousand nine hundred and eighty-eight.

Certified true copy in the English, French and Spanish languages of the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988, the original of which is deposited with the Secretary-General of the International Maritime Organization.

For the Secretary-General of the International Maritime Organization.

——— ———.

NOTE: Status of signatories and ratifiers is found on page 56 of Document J.4.e. below.

c. International Convention Against the Taking of Hostages, December 17, 1979*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

CONSIDERING THAT:

The International Convention Against the Taking of Hostages was adopted by the United Nations General Assembly on December 17, 1979, and was signed on behalf of the United States of America on December 21, 1979, a certified copy of which Convention is hereto annexed;

The Senate of the United States of America by its resolution of July 30, 1981, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Convention;

The President of the United States of America ratified the Convention on September 4, 1981, in pursuance of the advice and consent of the Senate;

The United States of America deposited its instrument of ratification on December 7, 1984, in accordance with the provisions of Article 17 of the Convention;

Pursuant to the provisions of Article 18, the Convention entered into force for the United States of America on January 6, 1985;

*Source: Proclamation is copied from the files of the Assistant Legal Adviser for Treaty Affairs, U.S. Department of State. Treaty text is from 96th Congress, 2d Session, Senate, Executive N

*TIAS 11081; entered into force June 3, 1983; for the United States, January 6, 1985. Status information appears at Document M.5.q., following.

NOW THEREFORE, I, Ronald Reagan, President of the United States of America, proclaim and make public the Convention, to the end that it be observed and fulfilled with good faith on and after January 6, 1985, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington
this third day of
October in the year of
our Lord one thousand
nine hundred eighty-six
and of the Independence
of the United States of
America the two hundred
eleventh.

Ronald Reagan

By the President:

George P. Shultz

Secretary of State

INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES

The States Parties to this Convention,

Having in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of friendly relations and co-operating among States,

Recognizing in particular that everyone has right to life, liberty and security of person, as set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights,

Reaffirming the principle of equal rights and self-determination of peoples as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, as well as in other relevant resolutions of the General Assembly,

Considering that the taking of hostages is an offence of grave concern to the international community and that, in accordance with the provisions of this Convention, any person committing an act of hostage taking shall either be prosecuted or extradited.

Being convinced that it is urgently necessary to develop international co-operation between States in devising and adopting effective measures for the prevention, prosecution and punishment of all acts of taking of hostages as manifestations of international terrorism,

Have agreed as follows:

Article 1

1. Any person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the "hostage") in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking hostages ("hostage-taking") within the meaning of this Convention.

2. Any person who:

(a) attempts to commit an act of hostage-taking, or

(b) participates as an accomplice of anyone who commits or attempts to commit an act of hostage-taking likewise commits an offence for the purposes of this Convention.

Article 2

Each State Party shall make the offences set forth in article 1 punishable by appropriate penalties which take into account the grave nature of those offences.

Article 3

1. The State Party in the territory of which the hostage is held by the offender shall take all measures it considers appropriate to ease the situation of the hostage, in particular, to secure his release and, after his release, to facilitate, when relevant, his departure.

2. If any object which the offender has obtained as a result of the taking of hostages comes into the custody of a State Party, that State Party shall return it as soon as possible to the hostage or the third party refererd to in article 1, as the case may be, or to the appropriate authorities thereof.

Article 4

States Parties shall co-operate in the prevention of the offences set forth in article 1, particularly by:

(*a*) taking all practicable measures to prevent preparations in their respective territories for the commission of those offences within or outside their territories, including measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts of taking of hostages;

(*b*) exchanging information and co-ordinating the taking of administrative and other measures as appropriate to prevent the commission of those offences.

Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over any of the offences set forth in article 1 which are committed:

(*a*) in its territory or on board a ship or aircraft registered in that State;

(*b*) by any of its nationals or, if the State considers it appropriate, by those stateless persons who have their habitual residence in its territory;

(*c*) in order to compel that State to do or abstain from doing any act; or

(*d*) with respect to a hostage who is a national of that State, if that State considers it appropriate.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 1 in cases where the alleged offender is present in its territory and it does not extradite him to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 6

1. Upon being satisfied that the circumstances so warrant, any State Party in the territory of which the alleged offender is present shall, in accordance with its laws, take him into custody or take other measures to ensure his presence for such time as is necessary to enable any

criminal or extradition proceedings to be instituted. That State Party shall immediately make a preliminary inquiry into the facts.

2. The custody or other measures referred to in paragraph 1 of this article shall be notified without delay directly or through the Secretary-General of the United Nations to:

(*a*) the State where the offense was committed;

(*b*) the State against which compulsion has been directed or attempted;

(*c*) the State of which the natural or juridical person against whom compulsion has been directed or attempted is a national;

(*d*) the State of which the hostage is a national or in the territory of which he has his habitual residence;

(*e*) the State of which the alleged offender is a national or, if he is a stateless person, in the territory of which he has his habitual residence;

(*f*) the international intergovernmental organization against which compulsion has been directed or attempted;

(*g*) all other States concerned.

3. Any person regarding whom the measures referred to in paragraph 1 of this article are being taken shall be entitled:

(*a*) to communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to establish such communication or, if he is a stateless person, the State in the territory of which he has his habitual residence;

(*b*) to be visited by a representative of that State.

4. The rights referred to in paragraph 3 of this article shall be exercised in conformity with the laws and regulations of the State in the territory of which the alleged offender is present subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 of this article are intended.

5. The provisions of paragraphs 3 and 4 of this article shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with paragraph 1(b) of article 5 to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. The State which makes the preliminary inquiry contemplated in paragraph 1 of this article shall promptly report its findings to the States or organization referred to in paragraph 2 of this article and indicate whether it intends to exercise jurisdiction.

Article 7

The State Party where the alleged offender is prosecuted shall in accordance with its laws communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States concerned and the international intergovernmental organizations concerned.

Article 8

1. The State Party in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception

whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a grave nature under the law of that State.

2. Any person regarding whom proceedings are being carried out in connexion with any of the offences set forth in article 1 shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the law of the State in the territory of which he is present.

Article 9

1. A request for the extradition of an alleged offender, pursuant to this Convention, shall not be granted if the requested State Party has substantial grounds for believing:

(*a*) that the request for extradition for an offence set forth in article 1 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality, ethnic origin or political opinion; or

(*b*) that the person's position may be prejudiced:

(i) for any of the reasons mentioned in subparagraph (*a*) of this paragraph, or

(ii) for the reason that communication with him by the appropriate authorities of the State entitled to exercise rights of protection cannot be effected.

2. With respect to the offences as defined in this Convention, the provisions of all extradition treaties and arrangements applicable between States Parties are modified as between States Parties to the extent that they are incompatible with this Convention.

Article 10

1. The offences set forth in article 1 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State may at its option consider this Convention as the legal basis for extradition in respect of the offences set forth in article 1. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 1 as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. The offences set forth in article 1 shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories

of the States required to establish their jurisdiction in accordance with paragraph 1 of article 5.

Article 11

1. States Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of the offences set forth in article 1, including the supply of all evidence at their disposal necessary for the proceedings.

2. The provisions of paragraph 1 of this article shall not affect obligations concerning mutual judicial assistance embodied in any other treaty.

Article 12

In so far as the Geneva Conventions of 1949 for the protection of war victims or the Protocols Additional to those Conventions are applicable to a particular act of hostage-taking, and in so far as States Parties to this Convention are bound under those conventions to prosecute or hand over the hostage-taker, the present Convention shall not apply to an act of hostage-taking committed in the course of armed conflicts as defined in the Geneva Conventions of 1949 and the Protocols thereto, including armed conflicts mentioned in article 1, paragraph 4, Additional Protocol I of 1977, in which peoples are fighting against colonial domination and alien occupation and against racist régimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.

Article 13

This Convention shall not apply where the offence is committed within a single State, the hostage and the alleged offender are nationals of that State and the alleged offender is found in the territory of that State.

Article 14

Nothing in this Convention shall be construed as justifying the violation of the territorial integrity or political independence of a State in contravention of the Charter of the United Nations.

Article 15

The provisions of this Convention shall not affect the application of the Treaties on Asylum, in force at the date of the adoption of this Convention, as between the States which are parties to those Treaties; but a State Party to this Convention may not invoke those Treaties with respect to another State Party to this Convention which is not a party to those treaties.

Article 16

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one them, be submitted to arbitration. If within six months from the date of the request for

arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 17

1. This Convention is open for signature by all States until 31 December 1980 at United Nations Headquarters in New York.

2. This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the the United Nations.

3. This Convention is open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 18

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 19

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Article 20

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

In Witness Whereof, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at New York on 18 December 1979.

I hereby certify that the foregoing text is a true copy of the International Convention against the taking of hostages, adopted by the

General Assembly of the United Nations on 17 December 1979, the original of which is deposited with the Secretary-General of the United Nations.

For the Secretary-General:
The Legal Counsel.

United Nations, New York, March 24, 1980.

International convention against the taking of hostages. Done at New York December 17, 1979; entered into force June 3, 1983; for the United States January 6, 1985.
TIAS 11081.
States which are parties:
Antigua & Barbuda
Argentina
Australia
Austria
Bahamas, The
Barbados
Belarus [1 2]
Bhutan
Bosnia-Herzegovina
Brunei
Bulgaria
Cameroon [1 2]
Canada
Chile [1]
China [2]
Cote d'Ivoire
Cyprus
Czech Rep.
Czechoslovakia [2 3]
Denmark
Dominica
Ecuador
Egypt
El Salvador [2]
Finland
German Dem. Rep. [1 2 4]
Germany, Fed. Rep. [4]
Ghana
Greece
Grenada
Guatemala
Haiti
Honduras
Hungary
Iceland
Italy
Japan
Jordan
Kenya [2]
Korea
Kuwait
Lesotho
Luxembourg
Malawi
Mali
Mauritius
Mexico
Mongolia
Nepal
Netherlands [1 2 5]
New Zealand [6]
Norway
Oman
Panama
Philippines
Portugal
Romania
Slovak Rep. [2]
Slovenia
Spain
Sudan
Suriname
Sweden
Switzerland
Togo
Trinidad & Tobago
Turkey [2]
Ukraine [1 2]
Union of Soviet Socialist Reps. [1 2 7]
United Kingdom [8]
United States
Venezuela [1]
Yugoslavia [9]

NOTES:
[1] With declaration.
[2] With reservation.
[3] See note under CZECHOSLOVAKIA in bilateral section.
[4] See note under GERMANY, FEDERAL REPUBLIC OF in bilateral section.
[5] Applicable to the Kingdom in Europe, the Netherlands Antilles and Aruba.
[6] Applicable to Cook Is. and Niue.
[7] See note under UNION OF SOVIET SOCIALIST REPUBLICS in bilateral section.
[8] Applicable to territories under the territorial sovereignty of the United Kingdom.
[9] See note under YUGOSLAVIA in bilateral section.

d. Vienna Convention on the Physical Protection of Nuclear Material, October 26, 1979 *

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL

THE CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL, ADOPTED AT A VIENNA MEETING OF GOVERNMENT REPRESENTATIVES ON OCTOBER 26, 1979, AND WAS SIGNED BY THE UNITED STATES ON MARCH 3, 1980

* Source: 96th Congress, 2d Session, Senate, Executive H. Entered into force, including for the United States, February 8, 1987. TIAS 11080. Information on status appears at Document M.5.q., following.

Convention on the Physical Protection of Nuclear Material

The States Parties to This Convention,

Recognizing the right of all States to develop and apply nuclear energy for peaceful purposes and their legitimate interests in the potential benefits to be derived from the peaceful application of nuclear energy,

Convinced of the need for facilitating international co-operation in the peaceful application of nuclear energy,

Desiring to avert the potential dangers posed by the unlawful taking and use of nuclear material,

Convinced that offences relating to nuclear material are a matter of grave concern and that there is an urgent need to adopt appropriate and effective measures to ensure the prevention, detection and punishment of such offences,

Aware of the Need for international co-operation to establish, in conformity with the national law of each State Party and with this Convention, effective measures for the physical protection of nuclear material,

Convinced that this Convention should facilitate the safe transfer of nuclear material,

Stressing also the importance of the physical protection of nuclear material in domestic use, storage and transport,

Recognizing the importance of effective physical protection of nuclear material used for military purposes, and understanding that such material is and will continue to be accorded stringent physical protection,

Have Agreed as follows:

Article 1

For the purposes of this Convention:

(*a*) "nuclear material" means plutonium except that with isotopic concentration exceeding 80% in plutonium-238; uranium-233; uranium enriched in the isotopes 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore-residue; any material containing one or more of the foregoing;

(*b*) "uranium enriched in the 235 or 233" means uranium containing the isotopes 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature;

(*c*) "international nuclear transport" means the carriage of a consignment of nuclear material by any means of transportation intended to go beyond the territory of the State where the shipment originates beginning with the departure from a facility of the shipper in that State and ending with the arrival at a facility of the receiver within the State of ultimate destination.

Article 2

1. The Convention shall apply to nuclear material used for peaceful purposes while in international nuclear transport.

2. With the exception of articles 3 and 4 and paragraph 3 of article 5, this Convention shall also apply to nuclear material used for peaceful purposes while in domestic use, storage and transport.

3. Apart from the commitments expressly undertaken by States Parties in the articles covered by paragraph 2 with respect to nuclear material used for peaceful purposes while in domestic use, storage and transport, nothing in this Convention shall be interpreted as affecting the sovereign rights of a State regarding the domestic use, storage and transport of such nuclear material.

Article 3

Each State Party shall take appropriate steps within the framework of its national law and consistent with international law to ensure as far as practicable that, during international nuclear transport, nuclear material within its territory, or on board a ship or aircraft under its jurisdiction insofar as such ship or aircraft is engaged in the transport to or from that State, is protected at the levels described in Annex I.

Article 4

1. Each State Party shall not export or authorize the export of nuclear material unless the State Party has received assurances that such material will be protected during the international nuclear transport at the levels described in Annex I.

2. Each State Party shall not import or authorize the import of nuclear material from a State not party to this Convention unless the State Party has received assurances that such material will during the international nuclear transport be protected at the levels described in Annex I.

3. A State Party shall not allow the transit of its territory by land or internal waterways or through its airports or seaports of nuclear material between States that are not parties to this Convention unless the State Party has received assurances as far as practicable that this nuclear material will be protected during international nuclear transport at the levels described in Annex I.

4. Each State Party shall apply within the framework of its national law the levels of physical protection described in Annex I to nuclear material being transported from a part of that State to another part of the same State through international waters or airspace.

5. The State Party responsible for receiving assurances that the nuclear material will be protected at the levels described in Annex I according to paragraphs 1 to 3 shall identify and inform in advance States which the nuclear material is expected to transit by land or internal waterways, or whose airports or seaports it is expected to enter.

6. The responsibility for obtaining assurances referred to in paragraph 1 may be transferred, by mutual agreement, to the State Party involved in the transport as the importing State.

7. Nothing in this article shall be interpreted as in any way affecting the territorial sovereignty and jurisdiction of a State, including that over its airspace and territorial sea.

Article 5

1. States Parties shall identify and make known to each other directly or through the International Atomic Energy Agency their central authority and point of contact having responsibility for physical protection of nuclear material and for co-ordinating recovery and response operations in the event of any unauthorized removal, use or alteration of nuclear material or in the event of credible threat thereof.

2. In the case of theft, robbery or any other unlawful taking of nuclear material or of credible threat thereof, States Parties shall, in accordance with their national law, provide co-operation and assistance to the maximum feasible extent in the recovery and protection of such material to any State that so requests. In particular:

(*a*) a State Party shall take appropriate steps to inform as soon as possible other States, which appear to it to be concerned, of any theft, robbery or other unlawful taking of nuclear material or credible threat thereof and to inform, where appropriate, international organizations;

(*b*) as appropriate, the States Parties concerned shall exchange information with each other or international organizations with a view to protecting threatened nuclear material, verifying the integrity of the shipping container, or recovering unlawfully taken nuclear material and shall:

(i) co-ordinate their efforts through diplomatic and other agreed channels;

(ii) render assistance, if requested;

(iii) ensure the return of nuclear material stolen or missing as a consequence of the above-mentioned events.

The means of implementation of this co-operation shall be determined by the States Parties concerned.

3. States Parties shall co-operate and consult as appropriate, with each other directly or through international organizations, with a view to obtaining guidance on the design, maintenance and improvement of systems of physical protection of nuclear material in international transport.

Article 6

1. States Parties shall take appropriate measures consistent with their national law to protect the confidentiality of any information which they receive in confidence by virtue of the provisions of this Convention from another State Party or through participation in an activity carried out for the implementation of this Convention. If States Parties provide information to international organizations in confidence, steps shall be taken to ensure that the confidentiality of such information is protected.

2. States Parties shall not be required by this Convention to provide any information which they are not permitted to communicate pursuant to national law or which would jeopardize the security of the State concerned or the physical protection of nuclear material.

Article 7

1. The intentional commission of:

(*a*) an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property;

(*b*) a theft or robbery of nuclear material;

(*c*) an embezzlement or fraudulent obtaining of nuclear material;

(*d*) an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation;

(*e*) a threat:

(i) to use nuclear material to cause death or serious injury to any person or substantial property damage, or

(ii) to commit an offense described in subparagraph (b) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act;

(*f*) an attempt to commit any offense described in paragraphs (a), (b) or (c); and

(*g*) an act which constitutes participation in any offense described in paragraphs (a) to (f)

shall be made a punishable offense by each State Party under its national law.

2. Each State Party shall make the offenses described in this article punishable by appropriate penalties which take into account their grave nature.

Article 8

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offenses set forth in article 7 in the following cases:

(*a*) when the offense is committed in the territory of that State or on board a ship or aircraft registered in that State;

(*b*) when the alleged offender is a national of that State.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these offenses in cases where the alleged offender is present in its territory and it does not extradite him pursuant to article 11 to any of the States mentioned in paragraph 1.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

4. In addition to the State Parties mentioned in paragraphs 1 and 2, each State Party may, consistent with international law, establish its jurisdiction over the offenses set forth in article 7 when it is involved in international nuclear transport as the exporting or importing State.

Article 9

Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take appropriate measures, including detention, under its national law to ensure his presence for the purpose of prosecution or extradition. Measures taken according to this article shall be notified without delay to the

States required to establish jurisdiction pursuant to article 8 and, where appropriate, all other States concerned.

Article 10

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the puropse of prosecution, through proceedings in accordance with the laws of that State.

Article 11

1. The offences in article 7 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include those offences as extraditable offenses in every future extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of those offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Each of the offences shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with paragraph 1 of article 8.

Article 12

Any person regarding whom proceedings are being carried out in connection with any of the offenses set forth in article 7 shall be guaranteed fair treatment at all stages of the proceedings.

Article 13

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offenses set forth in article 7, including the supply of evidence at their disposal necessary for the proceedings. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

Article 14

1. Each State Party shall inform the depositary of its laws and regulations which give effect to this Convention. The depositary shall communicate such information periodically to all States Parties.

2. The State Party where an alleged offender is prosecuted shall, wherever practicable, first communicate the final outcome of the proceedings to the States directly concerned. The State Party shall also communicate the final outcome to the depositary who shall inform all States.

3. Where an offence involves nuclear material used for peaceful purposes in domestic use, storage or transport, and both the alleged offender and the nuclear material remain in the territory of the State Party in which the offence was committed, nothing in this Convention shall be interpreted as requiring that State Party to provide information concerning criminal proceedings arising out of such an offense.

Article 15

The Annexes constitute an integral part of this Convention.

Article 16

1. A conference of States Parties shall be convened by the depositary five years after the entry into force of this Convention to review the implementation of the Convention and its adequacy as concerns the preamble, the whole of the operative part and the annexes in the light of the then prevailing situation.

2. At intervals of not less than five years thereafter, the majority of States Parties may obtain, by submitting a proposal to this effect to the depositary, the convening of further conferences with the same objective.

Article 17

1. In the event of a dispute between two or more States Parties concerning the interpretation or application of this Convention, such States Parties shall consult with a view to the settlement of the dispute by negotiation, or by any other peaceful means of settling disputes acceptable to all parties to the dispute.

2. Any dispute of this character which cannot be settled in the manner prescribed in paragraph 1 shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In case of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

3. Each State Party may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2, with respect to a State Party which has made a reservation to that procedure.

4. Any State Party which has made a reservation in accordance with paragraph 3 may at any time withdraw that reservation by notification to the depositary.

Article 18

1. This Convention shall be open for signature by all States at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York from 3 March 1980 until its entry into force.

2. This Convention is subject to ratification, acceptance or approval by the signatory States.

3. After its entry into force, this Convention will be open for accession by all States.

4. (*a*) This Convention shall be open for signature or accession by international organizations and regional organizations of an integration or other nature, provided that any such organization is constituted by sovereign States and has competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(*b*) In matters within their competence, such organizations shall, on their own behalf, exercise the rights and fulfill the responsibilities which this Convention attributes to States Parties.

(*c*) When becoming party to this Convention such an organization shall communicate to the depositary a declaration indicating which States are members thereof and which articles of this Convention do not apply to it.

(*d*) Such an organization shall not hold any vote additional to those of its Member States.

5. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

Article 19

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty first instrument of ratification, acceptance or approval with the depositary.

2. For each State ratifying, accepting, approving or acceding to the Convention after the date of deposit of the twenty first instrument of ratification, acceptance or approval, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 20

1. Without prejudice to article 16 a State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all States Parties. If a majority of States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be promptly circulated by the depositary to all States Parties.

2. The amendment shall enter into force for each State Party that deposits its instrument of ratification, acceptance or approval of the

amendment on the thirtieth day after the date on which two thirds of the States Parties have deposited their instruments of ratification, acceptance or approval with the depositary. Thereafter, the amendment shall enter into force for any other State Party on the day on which that State Party deposits its instrument of ratification, acceptance or approval of the amendment.

Article 21

1. Any State Party may denounce this Convention by written notification to the depositary.

2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the depositary.

Article 22

The depositary shall promptly notify all States of:

(a) each signature of this Convention;

(b) each deposit of an instrument of ratification, acceptance, approval or accession;

(c) any reservation or withdrawal in accordance with article 17;

(d) any communication made by an organization in accordance with paragraph 4(c) of article 18;

(e) the entry into force of this Convention;

(f) the entry into force of any amendment to this Convention; and

(g) any denunciation made under article 21.

Article 23

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies thereof to all States.

ANNEX I

LEVELS OF PHYSICAL PROTECTION TO BE APPLIED IN INTERNATIONAL TRANSPORT OF NUCLEAR MATERIAL AS CATEGORIZED IN ANNEX II

1. Levels of physical protection for nuclear material during storage incidental to international nuclear transport include:

(*a*) For Category III materials, storage within an area to which access is controlled;

(*b*) For Category II materials, storage within an area under constant surveillance by guards or electronic devices, surrounded by a physical barrier with a limited number of points of entry under appropriate control or any area with an equivalent level of physical protection;

(*c*) For Category I material, storage within a protected area as defined for Category II above, to which, in addition, access is restricted to persons whose trustworthiness has been determined, and which is under surveillance by guards who are in close communication with appropriate response forces. Specific measures taken in this context should have as their object the detection and prevention of any assault, unauthorized access or unauthorized removal of material.

2. Levels of physical protection for nuclear material during international transport include:

(*a*) For Category II and III materials, transportation shall take place under special precautions including prior arrangements among sender, receiver, and carrier, and prior agreement between natural or legal persons subject to the jurisdiction and regulation of exporting and importing States, specifying time, place and procedures for transferring transport responsibility;

(*b*) For Category I materials, transportation shall take place under special precautions identified above for transportation of Category II and III materials, and in addition, under constant surveillance by escorts and under conditions which assure close communication with appropriate response forces;

(*c*) For natural uranium other than in the form of ore or ore-residue, transportation protection for quantities exceeding 500 kilograms U shall include advance notification of shipment specifying mode of transport, expected time of arrival and confirmation of receipt of shipment.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Convention, opened for signature at Vienna and at New York on 3 March 1980.

Annex II

TABLE: CATEGORIZATION OF NUCLEAR MATERIAL

Material	Form	Category I	Category II	Category III [3]
1. Plutonium [1]	Unirradiated [2]	2 kg or more	Less than 2 kg but more than 500 g.	500 g or less but more than 15 g.
2. Uranium-235	Unirradiated [2]:			
	—uranium enriched to 20% U^{235} or more	5 kg or more	Less than 5 kg but more than 1 kg.	1 kg or less but more than 15 g.
	—uranium enriched to 10% U^{235} but less than 20%		10 kg or more	Less than 10 kg but more than 1 kg.
	—uranium enriched above natural, but less than 10% U^{235}.			10 kg or more.
3. Uranium-233	Unirradiated [2]	2 kg or more	Less than 2 kg but more than 500 g.	500 g or less but more than 15 g.
4. Irradiated fuel			Depleted or natural uranium, thorium or low-enriched fuel (less than 10% fissile content).[4] [5]	

[1] All plutonium except that with isotopic concentration exceeding 80% in plutonium-238.
[2] Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 100 rads/hour at one metre unshielded.
[3] Quantities not falling in Category III and natural uranium should be protected in accordance with prudent management practice.
[4] Although this level of protection is recommended, it would be open to States, upon evaluation of the specific circumstances, to assign a different category of physical protection.
[5] Other fuel which by virtue of its original fissile material content is classified as Category I and II before irradiation may be reduced one category level while the radiation level from the fuel exceeds 100 rads/hour at one metre unshielded

(11)

NOTE: Status of signatories and ratifiers appears on page 47 of Document J.4.e. below.

e. U.N. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents*

Adopted by the United Nations General Assembly December 14, 1973; Signed on behalf of the United States of America December 28, 1973; Ratification advised by the Senate of the United States of America October 28, 1975; Instrument of ratification deposited with the Secretary-General of the United Nations October 27, 1976; Entered into force February 20, 1977

THE STATES PARTIES TO THIS CONVENTION,

HAVING IN MIND the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and the promotion of friendly relations and co-operation among States,

CONSIDERING that crimes against diplomatic agents and other internationally protected persons jeopardizing the safety of these persons create a serious threat to the maintenance of normal international relations which are necessary for co-operation among States,

BELIEVING that the commission of such crimes is a matter of grave concern to the international community,

CONVINCED that there is an urgent need to adopt appropriate and effective measures for the prevention and punishment of such crimes,

HAVE AGREED as follows:

ARTICLE 1

For the purposes of this Convention:

1. "internationally protected person" means:

(a) a Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in a foreign State, as well as members of his family who accompany him;

(b) any representative or official of a State or any official or other agent of an international organization of an intergovernmental character who, at the time when and in the place where a crime against him, his official premises, his private accommodation or his means of transport is committed, is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity, as well as members of his family forming part of his household.

*28 UST 1975; TIAS 8532; 1035 UNTS 167. For states which are parties to the Convention, see Department of State publication, *Treaties in Force* and at Document M.5.q., following.

2. "alleged offender" means a person as to whom there is sufficient evidence to determine *prima facie* that he has committed or participated in one or more of the crimes set forth in article 2.

ARTICLE 2

1. The international commission of:

(a) a murder, kidnapping or other attack upon the person or liberty of an internationally protected person;

(b) a violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person likely to endanger his person or liberty;

(c) a threat to commit any such attack;

(d) an attempt to commit any such attack; and

(e) an act constituting participation as an accomplice in any such attack shall be made by each State Party a crime under its internal law.

2. Each State Party shall make these crimes punishable by appropriate penalties which take into account their grave nature.

3. Paragraphs 1 and 2 of this article in no way derogate from the obligations of States Parties under international law to take all appropriate measures to prevent other attacks on the person, freedom or dignity of an internationally protected person.

ARTICLE 3

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set forth in article 2 in the following cases:

(a) when the crime is committed in the territory of that State or on board a ship or aircraft registered in that State;

(b) when the alleged offender is a national of that State;

(c) when the crime is committed against an internationally protected person as defined in article 1 who enjoys his status as such by virtue of functions which he exercise on behalf of that State.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these crimes in cases where the alleged offender is present in its territory and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

ARTICLE 4

States Parties shall co-operate in the prevention of the crimes set forth in article 2, particularly by:

(a) taking all practicable measures to prevent preparations in their respective territories for the commission of those crimes within or outside their territories;

(b) exchanging information and co-ordinating the taking of administrative and other measures as appropriate to prevent the commission of those crimes.

ARTICLE 5

1. The State Party in which any of the crimes set forth in article 2 has been committed shall, if it has reason to believe that an alleged offender has fled from its territory, communicate to all other States concerned, directly or through the Secretary-General of the United Nations, all the pertinent facts regarding the crime committed and all available information regarding the identity of the alleged offender.

Whenever any of the crimes set forth in article 2 has been committed against an internationally protected person, any State Party which has information concerning the victim and the circumstances of the crime shall endeavor to transmit it, under the conditions provided for in its internal law, fully and promptly to the State Party on whose behalf he was exercising his functions.

ARTICLE 6

1. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take the appropriate measures under its internal law so as to ensure his presence for the purpose of prosecution or extradition. Such measures shall be notified without delay directly or through the Secretary-General of the United Nations to:

(a) the State where the crime was committed;

(b) the State or States of which the alleged offender is a national or, if he is a stateless person, in whose territory he permanently resides;

(c) the State or States of which the internationally protected person concerned is a national or on whose behalf he was exercising his functions;

(d) all other States concerned; and

(e) the international organization of which the internationally protected person concerned is an official or an agent.

2. Any person regarding whom the measures referred to in paragraph 1 of this article are being taken shall be entitled:

(a) to communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to protect his rights or, if he is a stateless person, which he requests and which is willing to protect his rights; and

(b) to be visited by a representative of that State.

ARTICLE 7

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

ARTICLE 8

1. To the extent that the crimes set forth in article 2 are not listed as extraditable offences in any extradition treaty existing between States Parties, they shall be deemed to be included as such

therein. States Parties undertake to include those crimes as extraditable offenses in every future extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may, if it decides to extradite, consider this Convention as the legal basis for extradition in respect of those crimes. Extradition shall be subject to the procedural provisions and the other conditions of the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those crimes as extraditable offenses between themselves subject to the procedural provisions and the other conditions of the law of the requested State.

4. Each of the crimes shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with paragraph 1 of article 3.

ARTICLE 9

Any person regarding whom proceedings are being carried out in connexion with any of the crimes set forth in article 2 shall be guaranteed fair treatment at all stages of the proceedings.

ARTICLE 10

1. States Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of the crimes set forth in article 2, including the supply of all evidence at their disposal necessary for the proceedings.

2. The provisions of paragraph 1 of this article shall not affect obligations concerning mutual judicial assistance embodied in any other treaty.

ARTICLE 11

The State Party where an alleged offender is prosecuted shall communicate the final outcome of the proceedings of the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

ARTICLE 12

The provisions of this Convention shall not affect the application of the Treaties on Asylum, in force at the date of the adoption of this Convention, as between the States which are parties to those Treaties; but a State Party to this Convention may not invoke those Treaties with respect to another State Party to this Convention which is not a party to those Treaties.

ARTICLE 13

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be sub-

mitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

ARTICLE 14

This Convention shall be open for signature by all States, until 31 December 1974 at United Nations Headquarters in New York.

ARTICLE 15

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

ARTICLE 16

This Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

ARTICLE 17

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

ARTICLE 18

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect six months following the date on which notification is received by the Secretary-General of the United Nations.

ARTICLE 19

The Secretary-General of the United Nations shall inform all States, *inter alia:*

(a) of signatures to this Convention, of the deposit of instruments of ratification or accession in accordance with articles 14, 15 and 16 and of notifications made under article 18.

(b) of the date on which this Convention will enter into force in accordance with article 17.

ARTICLE 20

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at New York on 14 December 1973.

f. Moscow Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction.

Signed at Washington, London, and Moscow April 10,1972; Ratification advised by U.S. Senate December 16, 1974; Ratified by U.S. President January 22, 1975; U.S. ratification deposited at Washington, London, and Moscow, March 26, 1975; Proclaimed by U.S. President March 26, 1975; Entered into force March 26, 1975;

The States Parties to this Convention,

Determined to act with a view to achieving effective progress towards general and complete disarmament, including the prohibition and elimination of all types of weapons of mass destruction, and convinced that the prohibition of the development, production and stockpiling of chemical and bacteriological (biological) weapons and their elimination, through effective measures, will facilitate the achievement of general and complete disarmament under strict and effective international control,

Recognizing the important significance of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on June 17, 1925, and conscious also of the contribution which the said Protocol has already made, and continues to make, to mitigating the horrors of war,

Reaffirming their adherence to the principles and objectives of that Protocol and calling upon all States to comply strictly with them,

Recalling that the General Assembly of the United Nations has repeatedly condemned all actions contrary to the principles and objectives of the Geneva Protocol of June 17, 1925,

Desiring to contribute to the strengthening of confidence between peoples and the general improvement of the international atmosphere,

Desiring also to contribute to the realization of the purposes and principles of the Charter of the United Nations,

Convinced of the importance and urgency of eliminating from the arsenals of States, through effective measures, such dangerous weapons of mass destruction as those using chemical or bacteriological (biological) agents,

Recognizing that an agreement on the prohibition of bacteriological (biological) and toxin weapons represents a first possible step towards the achievement of agreement on effective measures also for the prohibition of the development, production and stockpiling of chemical weapons, and determined to continue negotiations to that end,

Determined, for the sake of all mankind, to exclude completely the possibility of bacteriological (biological) agents and toxins being used as weapons,

Convinced that such use would be repugnant to the conscience of mankind and that no effort should be spared to minimize this risk,

Have agreed as follows:

ARTICLE I

Each State Party to this Convention undertakes never in any circumstances to develop, produce, stockpile or otherwise acquire or retain:

(1) Microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes;

(2) Weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

ARTICLE II

Each State Party to this Convention undertakes to destroy, or to divert to peaceful purposes, as soon as possible but not later than nine months after the entry into force of the Convention, all agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention, which are in its possession or under its jurisdiction or control. In implementing the provisions of this article all necessary safety precautions shall be observed to protect populations and the environment.

ARTICLE III

Each State Party to this Convention undertakes not to transfer to any recipient whatsoever, directly or indirectly, and not in any way to assist, encourage, or induce any State, group of States or international organizations to manufacture or otherwise acquire any of the agents, toxins, weapons, equipment or means of delivery specified in article I of the Convention.

ARTICLE IV

Each State Party to this Convention shall, in accordance with its constitutional processes, take any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition, or retention of the agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention, within the territory of such State, under its jurisdiction or under its control anywhere.

ARTICLE V

The States Parties to this Convention undertake to consult one another and to cooperate in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention. Consultation and cooperation pursuant to this article may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.

ARTICLE VI

(1) Any State Party to this Convention which finds that any other State Party is acting in breach of obligations deriving from the provisions of the Convention may lodge a complaint with the Security Council of the United Nations. Such a complaint should include all possible evidence confirming its validity, as well as a request for its consideration by the Security Council.

(2) Each State Party to this Convention undertakes to cooperate in carrying out any investigation which the Security Council may initiate, in accordance with the provisions of the Charter of the United Nations, on the basis of the complaint received by the Council. The Security Council shall inform the States Parties to the Convention of the results of the investigation.

ARTICLE VII

Each State Party to this Convention undertakes to provide or support assistance, in accordance with the United Nations Charter, to any Party to the Convention which so requests, if the Security Council decides that such Party has been exposed to danger as a result of violation of the Convention.

ARTICLE VIII

Nothing in this Convention shall be interpreted as in any way limiting or detracting from the obligations assumed by any State under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on June 17, 1925.

ARTICLE IX

Each State Party to this Convention affirms the recognized objective of effective prohibition of chemical weapons and, to this end, undertakes to continue negotiations in good faith with a view to reaching early agreement on effective measures for the prohibition of their development, production and stockpiling and for their destruction, and on appropriate measures concerning equipment and means of delivery specifically designed for the production or use of chemical agents for weapons purposes.

ARTICLE X

(1) The States Parties to this Convention undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the use of bacteriological (biological) agents and toxins for peaceful purposes. Parties to the Convention in a position to do so shall also cooperate in contributing individually or together with other States or international organizations to the further development and application of scientific discoveries in the field of bacteriology (biology) for prevention of disease, or for other peaceful purposes.

(2) This Convention shall be implemented in a manner designed to avoid hampering the economic or technological development of States Parties to the Convention or international cooperation in the

field of peaceful bacteriological (biological) activities, including the international exchange of bacteriological (biological) agents and toxins and equipment for the processing, use or production of bacteriological (biological) agents and toxins for peaceful purposes in accordance with the provisions of the Convention.

ARTICLE XI

Any State Party may propose amendments to this Convention. Amendments shall enter into force for each State Party accepting the amendments upon their acceptance by a majority of the States Parties to the Convention and thereafter for each remaining State Party on the date of acceptance by it.

ARTICLE XII

Five years after the entry into force of this Convention, or earlier if it is requested by a majority of Parties to the Convention by submitting a proposal to this effect to the Depositary Governments, a conference of States Parties to the Convention shall be held at Geneva, Switzerland, to review the operation of the Convention, with a view to assuring that the purposes of the preamble and the provisions of the Convention, including the provisions concerning negotiations on chemical weapons, are being realized. Such review shall take into account any new scientific and technological developments relevant to the Convention.

ARTICLE XIII

(1) This Convention shall be of unlimited duration.

(2) Each State Party to this Convention shall in exercising its national sovereignty have the right to withdraw from the Convention if it decides that extraordinary events, related to the subject matter of the Convention, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other States Parties to the Convention and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

ARTICLE XIV

(1) This Convention shall be open to all States for signature. Any State which does not sign the Convention before its entry into force in accordance with paragraph (3) of this Article may accede to it at any time.

(2) This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

(3) This Convention shall enter into force after the deposit of instruments of ratification by twenty-two Governments, including the Governments designated as Depositories of the Convention.

(4) For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

(5) The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession and the date of the entry into force of this Convention, and of the receipt of other notices.

(6) This Convention shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

ARTICLE XV

This Convention, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of the Convention shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding states.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed this Convention.

DONE in triplicate, at the cities of Washington, London and Moscow, this tenth day of April, one thousand nine hundred and seventy-two.

g. Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation*

Done at Montreal September 23, 1971; Entered into Force January 26, 1973

The States Parties to the Convention

Considering that unlawful acts against the safety of civil aviation jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

Considering that the occurrence of such acts is a matter of grave concern;

Considering that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

Have agreed as follows:

ARTICLE 1

1. Any person commits an offence if he unlawfully and intentionally:

(a) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or

(b) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or

(c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or

(d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or

(e) communicates information which he knows to be false, thereby endangering the safety of an aircraft in flight.

2. Any person also commits an offence if he:

(a) attempts to commit any of the offences mentioned in paragraph 1 of this Article; or

(b) is an accomplice of a person who commits or attempts to commit any such offence.

ARTICLE 2

For the purposes of this Convention:

*24 UST 567; TIAS 7570. For states which are parties to the Convention, see Department of State publication, *Treaties in Force* and at Document M.5.q, following.

(a) an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation; in the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board;

(b) an aircraft is considered to be in service from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight as defined in paragraph (a) of this Article.

ARTICLE 3

Each Contracting State undertakes to make the offences mentioned in Article 1 punishable by severe penalties.

ARTICLE 4

1. This Convention shall not apply to aircraft used in military, customs or police services.

2. In the cases contemplated in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this Convention shall apply, irrespective of whether the aircraft is engaged in an international or domestic flight, only if:

(a) the place of take-off or landing, actual or intended, of the aircraft is situated outside the territory of the State of registration of that aircraft; or

(b) the offence is committed in the territory of a State other than the State of registration of the aircraft.

3. Notwithstanding paragraph 2 of this Article, in the cases contemplated in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this Convention shall also apply if the offender or the alleged offender is found in the territory of a State other than the State of registration of the aircraft.

4. With respect to the States mentioned in Article 9 and in the cases mentioned in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this Convention shall not apply if the places referred to in subparagraph (a) of paragraph 2 of this Article are situated within the territory of the same State where that State is one of those referred to in Article 9, unless the offence is committed or the offender or alleged offender is found in the territory of a State other than that State.

5. In the cases contemplated in subparagraph (d) of paragraph 1 of Article 1, this Convention shall apply only if the air navigation facilities are used in international air navigation.

6. The provisions of paragraphs 2, 3, 4 and 5 of this Article shall also apply in the cases contemplated in paragraph 2 of Article 1.

ARTICLE 5

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offences in the following cases:

(a) when the offence is committed in the territory of that State;

(b) when the offence is committed against or on board an aircraft registered in that State;

(c) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;

(d) when the offence is committed against or on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mentioned in Article 1, paragraph 1 (a), (b) and (c), and in Article 1, paragraph 2, in so far as that paragraph relates to those offences, in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

ARTICLE 6

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the States mentioned in Article 5, paragraph 1, the State of nationality of the detained person and, if it considers it advisable, any other interested State of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

ARTICLE 7

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

ARTICLE 8

1. The offences shall be deemed to be included as extraditable offences in any extradition treaty existing between Contracting States. Contracting States undertake to include the offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Each of the offences shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 5, paragraph 1 (b), (c) and (d).

ARTICLE 9

The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

ARTICLE 10

1. Contracting States shall, in accordance with international and national law, endeavour to take all practicable measure for the purpose of preventing the offences mentioned in Article 1.

2. When, due to the commission of one of the offences mentioned in Article 1, a flight has been delayed or interrupted, any Contracting State in whose territory the aircraft or passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

ARTICLE 11

1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which

governs or will govern, in whole or in part, mutual assistance in criminal matters.

ARTICLE 12

Any Contracting State having reason to believe that one of the offences mentioned in Article 1 will be committed shall, in accordance with its national law, furnish any relevant information in its possession to those States which it believes would be the States mentioned in Article 5, paragraph 1.

ARTICLE 13

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

(a) the circumstances of the offence;

(b) the action taken pursuant to Article 10, paragraph 2;

(c) the measures taken in relation to the offender or the alleged offender and, in particular, the results of any extradition proceedings or other legal proceedings.

ARTICLE 14

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

ARTICLE 15

1. This Convention shall be open for signature at Montreal on 23 September 1971, by States participating in the International Conference on Air Law held at Montreal from 8 to 23 September 1971 (hereinafter referred to as the Montreal Conference). After 10 October 1971, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and

Northern Ireland, and the United States of America, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in the Montreal Conference.

4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of this Article, or thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of this Convention, and other notices.

6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to Article 102 of the Convention on International Civil Aviation (Chicago, 1944).

ARTICLE 16

1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their Governments, have signed this Convention.

Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation—February 4, 1988 *

PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION, SUPPLEMENTARY TO THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION, DONE AT MONTREAL ON 23 SEPTEMBER 1971

The States Parties to this Protocol:

Considering that unlawful acts of violence which endanger or are likely to endanger the safety of persons at airports serving international civil aviation or which jeopardize the safe operation of such airports undermine the confidence of the peoples of the world in safety at such airports and disturb the safe and orderly conduct of civil aviation for all States;

Considering that the occurrence of such acts is a matter of grave concern to the international community and that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

Considering that it is necessary to adopt provisions supplementary to those of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, to deal with such unlawful acts of violence at airports serving international civil aviation;

Have agreed as follows:

ARTICLE I

This Protocol supplements the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971 (hereinafter referred to as "the Convention"), and, as between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument.

ARTICLE II

In Article 1 of the Convention, the following shall be added as new paragraph 1 *bis*:

"1 *bis*. Any person commits an offense if he unlawfully and intentionally using any device, substance or weapon:

(a) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

(b) destroys or seriously damages the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupts the services of the airport.

if such an act endangers or is likely to endanger safety at that airport."

2. In paragraph 2(a) of Article 1 of the Convention, the following words shall be inserted after the words "paragraph 1":

* Source: Treaty Document 100-19; Entered into force August 6, 1989; for the United States November 18, 1994. No TIAS number. Status information appears at Document M.5.q., following.

"or paragraph 1 *bis*".

ARTICLE III

In Article 5 of the Convention, the following shall be added as paragraph 2 *bis*:

"2 *bis*. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mentioned in Article 1, paragraph 1 *bis*, and in Article 1, paragraph 2, in so far as that paragraph relates to those offences, in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to the State mentioned in paragraph 1(a) of this Article."

ARTICLE IV

This Protocol shall be open for signature at Montreal on 24 February 1988 by States participating in the International Conference on Air Law held at Montreal from 9 to 24 February 1988. After 1 March 1988, the Protocol shall be open for signature to all States in London, Moscow, Washington and Montreal, until it enters into force in accordance with Article VI.

ARTICLE V

1. This Protocol shall be subject to ratification by the signatory States.

2. Any State which is not a Contracting State to the Convention may ratify this Protocol if at the same time it ratifies or accedes to the Convention in accordance with Article 15 thereof.

3. Instruments of ratification shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America or with the International Civil Aviation Organization, which are hereby designated the Depositaries.

ARTICLE VI

1. As soon as ten of the signatory States have deposited their instruments of ratification of this Protocol, it shall enter into force between them on the thirtieth day after the date of the deposit of the tenth instrument of ratification. It shall enter into force for each State which deposits its instrument of ratification after that date on the thirtieth day after deposit of its instrument of ratification.

2. As soon as this Protocol enters into force, it shall be registered by the Depositaries pursuant to Article 102 of the Charter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).

ARTICLE VII

1. This Protocol shall, after it has entered into force, be open for accession by any non-signatory State.

2. Any State which is not a Contracting State to the Convention may accede to this Protocol if at the same time it ratifies or accedes to the Convention in accordance with Article 15 thereof.

3. Instruments of accession shall be deposited with the Depositaries and accession shall take effect on the thirtieth day after the deposit.

ARTICLE VIII

1. Any Party to this Protocol may denounce it by written notification addressed to the Depositaries.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositaries.

3. Denunciation of this Protocol shall not of itself have the effect of denunciation of the Convention.

4. Denunciation of the Convention by a Contracting State to the Convention as supplemented by this Protocol shall also have the effect of denunciation of this Protocol.

ARTICLE IX

The Depositaries shall promptly inform all signatory and acceding States to this Protocol and all signatory and acceding States to the Convention:

(a) of the date of each signature and the date of deposit of each instrument of ratification of, or accession to, this Protocol, and

(b) of the receipt of any notification of denunciation of this Protocol and the date thereof.

2. The Depositaries shall also notify the States referred to in paragraph 1 of the date on which this Protocol enters into force in accordance with Article VI.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their Governments, have signed this protocol.

DONE at Montreal on the twenty-fourth day of February of the year One Thousand Nine Hundred and Eighty-eight, in four originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

h. OAS Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance *

Adopted at the 3d Special Session of the OAS General Assembly, Washington, D.C., January 25–February 2, 1971; Ratification advised by the Senate of the United States of America June 12, 1972; Instrument of ratification deposited in the General Secretariat of the Organization of American States October 20, 1976; Entered into force with respect to the United States of America October 20, 1976

WHEREAS, The defense of freedom and justice and respect for the fundamental rights of the individual that are recognized by the American Declaration of the Rights and Duties of Man and the Universal Declaration of Human Rights are primary duties of states;

The General Assembly of the Organization, in Resolution 4, of June 30, 1970, strongly condemned acts of terrorism, especially the kidnapping of persons and extortion in connection with that crime, which it declared to be serious common crimes;

Criminal acts against persons entitled to special protection under international law are occurring frequently, and those acts are of international significance because of the consequences that may flow from them for relations among states;

It is advisable to adopt general standards that will progressively develop international law as regards cooperation in the prevention and punishment of such acts; and

In the application of those standards the institution of asylum should be maintained and, likewise the principle of nonintervention should not be impaired,

THE MEMBER STATES OF THE ORGANIZATION OF AMERICAN STATES HAVE AGREED UPON THE FOLLOWING ARTICLES:

ARTICLE 1

The contracting states undertake to cooperate among themselves by taking all the measures that they may consider effective, under their own laws, and especially those established in this convention, to prevent and punish acts of terrorism, especially kidnapping, murder, and other assaults against the life or physical integrity of those persons to whom the state has the duty according to international law to give special protection, as well as extortion in connection with those crimes.

* 27 UST 3949; TIAS 8413. For states which are parties in the Convention, see Department of State publication, *Treaties in Force* and at Document M.5.1., following.

ARTICLE 2

For the purposes of this convention, kidnapping, murder, and other assaults against the life or personal integrity of those persons to whom the state has the duty to give special protection according to international law, as well as extortion in connection with those crimes, shall be considered common crimes of international significance, regardless of motive.

ARTICLE 3

Persons who have been charged or convicted for any of the crimes referred to in Article 2 of this convention shall be subject to extradition under the provisions of the extradition treaties in force between the parties or, in the case of states that do not make extradition dependent on the existence of a treaty, in accordance with their own laws.

In any case, it is the exclusive responsibility of the state under whose jurisdiction or protection such persons are located to determine the nature of the acts and decide whether the standards of this convention are applicable.

ARTICLE 4

Any person deprived of his freedom through the application of this convention shall enjoy the legal guarantees of due process.

ARTICLE 5

When extradition requested for one of the crimes specified in Article 2 is not in order because the person sought is a national of the requested state, or because of some other legal or constitutional impediment, that state is obliged to submit the case to its competent authorities for prosecution, as if the act had been committed in its territory. The decision of these authorities shall be communicated to the state that requested extradition. In such proceedings, the obligation established in Article 4 shall be respected.

ARTICLE 6

None of the provisions of this convention shall be interpreted so as to impair the right of asylum.

ARTICLE 7

The contracting states undertake to include the crimes referred to in Article 2 of this convention among the punishable acts giving rise to extradition in any treaty on the subject to which they agree among themselves in the future. The contracting states that do not subject extradition to the existence of a treaty with the requesting state shall consider the crimes referred to in Article 2 of this convention as crimes giving rise to extradition, according to the conditions established by the laws of the requested state.

ARTICLE 8

To cooperate in preventing and punishing the crimes contemplated in Article 2 of this convention, the contracting states accept the following obligations:

a. To take all measures within their power, and in conformity with their own laws, to prevent and impede the preparation in their respective territories of the crimes mentioned in Article 2 that are to be carried out in the territory of another contracting state.

b. To exchange information and consider effective administrative measures for the purpose of protecting the persons to whom Article 2 of this convention refers.

c. To guarantee to every person deprived of his freedom through the application of this convention every right to defend himself.

d. To endeavor to have the criminal acts contemplated in this convention included in their penal laws, if not already so included.

e. To comply most expeditiously with the requests for extradition concerning the criminal acts contemplated in this convention.

ARTICLE 9

This convention shall remain open for signature by the member states of the Organization of American States, as well as by any other state that is a member of the United Nations or any of its specialized agencies, or any state that is a party to the Statute of the International Court of Justice, or any other state that may be invited by the General Assembly of the Organization of American States to sign it.

ARTICLE 10

This convention shall be ratified by the signatory states in accordance with their respective constitutional procedures.

ARTICLE 11

The original instrument of this convention, the English, French, Portuguese, and Spanish texts of which are equally authentic, shall be deposited in the General Secretariat of the Organization of American States, which shall send certified copies of the signatory governments for purposes of ratification. The instruments of ratification shall be deposited in the General Secretariat of the Organization of American States, which shall notify the signatory governments of such deposit.

ARTICLE 12

This convention shall enter into force among the states that ratify it when they deposit their respective instruments of ratification.

ARTICLE 13

This convention shall remain in force indefinitely, but any of the contracting states may denounce it. The denunciation shall be transmitted to the General Secretariat of the Organization of American States, which shall notify the other contracting states thereof. One year following the denunciation, the convention shall cease to be in force for the denouncing state, but shall continue to be in force for the other contracting states.

STATEMENT OF PANAMA

The Delegation of Panama states for the record that nothing in this convention shall be interpreted to the effect that the right of asylum implies the right to request asylum from the United States authorities in the Panama Canal Zone, or that there is recognition of the right of the United States to grant asylum or political refuge in that part of the territory of the Republic of Panama that constitutes the Canal Zone.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, having presented their full powers, which have been found to be in due and proper form, sign this convention on behalf of their respective governments, at the city of Washington this second day of February of the year one thousand nine hundred seventy-one.

i. Hague Convention for the Suppression of Unlawful Seizure of Aircraft *

Done at The Hague December 16, 1970; Ratification advised by the Senate September 8, 1971; Ratification by the President of the United States of America September 14, 1971; Ratification of the United States of America deposited at Washington September 14, 1971; Proclaimed by the President of the United States of America October 18, 1971; Entered into force October 14, 1971

CONVENTION FOR THE SUPPRESSION OF UNLAWFUL SEIZURE OF AIRCRAFT

PREAMBLE

THE STATES PARTIES TO THIS CONVENTION

CONSIDERING that unlawful acts of seizure or exercise of control of aircraft in flight jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

CONSIDERING that the occurrence of such acts is a matter of grave concern;

CONSIDERING that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

HAVE agreed as follows:

ARTICLE 1

Any person who on board an aircraft in flight:

(a) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or

(b) is an accomplice of a person who performs or attempts to perform any such act

commits an offence (hereinafter referred to as "the offence").

ARTICLE 2

Each Contracting State undertakes to make the offence punishable by severe penalties.

ARTICLE 3

1. For the purposes of this Convention, an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced

* 22 UST 1641; TIAS 7192. For a list of states which are parties to the Convention, see Department of State publication, *Treaties in Force* and at Document M.5.q. following.

landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.

2. This Convention shall not apply to aircraft used in military, customs or police services.

3. This Convention shall apply only if the place of take-off or the place of actual landing of the aircraft on board which the offence is committed is situated outside the territory of the State of registration of that aircraft; it shall be immaterial whether the aircraft is engaged in an international or domestic flight.

4. In the cases mentioned in Article 5, this Convention shall not apply if the place of take-off and the place of actual landing of the aircraft on board which the offence is committed are situated within the territory of the same State where that State is one of those referred to in that Article.

5. Notwithstanding paragraphs 3 and 4 of this Article, Articles 6, 7, 8 and 10 shall apply whatever the place of take-off or the place of actual landing of the aircraft, if the offender or the alleged offender is found in the territory of a State other than the State of registration of that aircraft.

ARTICLE 4

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offence and any other act of violence against passengers or crew committed by the alleged offender in connection with the offence, in the following cases:

(a) when the offence is committed on board an aircraft registered in that State;

(b) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;

(c) when the offence is committed on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offence in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

ARTICLE 5

The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

ARTICLE 6

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the State of registration of the aircraft, the State mentioned in Article 4, paragraph 1(c), the State of nationality of the detained person and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

ARTICLE 7

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

ARTICLE 8

1. The offence shall be deemed to be included as an extraditable offence in any extradition treaty existing between Contracting States. Contracting States undertake to include the offence as an extraditable offence in every extradition treaty to be concluded between them.

2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offence. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offence as an extraditable offence between themselves subject to the conditions provided by the law of the requested State.

4. The offence shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territories of the

States required to establish their jurisdiction in accordance with Article 4, paragraph 1.

ARTICLE 9

1. When any of the acts mentioned in Article 1(a) has occurred or is about to occur, Contracting States shall take appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.

2. In the cases contemplated by the preceding paragraph, any Contracting State in which the aircraft or its passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

ARTICLE 10

1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offence and other acts mentioned in Article 4. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

ARTICLE 11

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

(a) the circumstances of the offence;

(b) the action taken pursuant to Article 9;

(c) the measures taken in relation to the offender or the alleged offender, and, in particular, the results of any extradition proceedings or other legal proceedings.

ARTICLE 12

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

ARTICLE 13

1. This Convention shall be open for signature at The Hague on 16 December 1970, by States participating in the International Conference on Air Law held at The Hague from 1 to 16 December 1970 (hereinafter referred to as The Hague Conference). After 31 December 1970, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in The Hague Conference.

4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of this Article, or thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of this Convention, and other notices.

6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations [1] and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).[2]

ARTICLE 14

1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto by their Governments, have signed this Convention.

DONE at The Hague, this sixteenth day of December, one thousand nine hundred and seventy, in three originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

[1] TS 993; 59 Stat. 1052.
[2] TIAS 1591; 61 Stat. 1203.

j. Tokyo Convention on Offenses and Certain Acts Committed on Board Aircraft, September 14, 1963 *

Convention on Offences and Certain Other Acts Committed on Board Aircraft, Tokyo, September 14, 1963*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the Convention on Offences and Certain Other Acts Committed on Board Aircraft was signed at Tokyo on September 14, 1963;

WHEREAS the text of the Convention, in the English, French and Spanish languages as certified by the Legal Bureau of the International Civil Aviation Organization, is word for word as follows:

CONVENTION ON OFFENCES AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRCRAFT

CONVENTION ON OFFENCES AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRCRAFT

THE STATES Parties to this Convention have agreed as follows:

Chapter I—Scope of the Convention

Article 1

1. This Convention shall apply in respect of:
   a) offences against penal law:

*Source: 20 UST 2941; TIAS 6768; Ratification advised by the Senate May 13, 1969; Ratified by the President June 30, 1969; Ratificiation deposited September 5, 1969; Proclaimed by President October 1, 1969; Entered into force December 4, 1969.

Note: Status information appears at Document M.5.1., following.

b) acts which, whether or not they are offences, may or do jeopardize the safety of the aircraft or of persons or property therein or which jeopardize good order and discipline on board.

2. Except as provided in Chapter III, this Convention shall apply in respect of offences committed or acts done by a person on board any aircraft registered in a Contracting State, while that aircraft is in flight or on the surface of the high seas or of any other area outside the territory of any State.

3. For the purposes of this Convention, an aircraft is considered to be in flight from the moment when power is applied for the purpose of take-off until the moment when the landing run ends.

4. This Convention shall not apply to aircraft used in military, customs or police services.

Article 2

Without prejudice to the provisions of Article 4 and except when the safety of the aircraft or of persons or property on board so requires, no provision of this Convention shall be interpreted as authorizing or requiring any action in respect of offences against penal laws of a political nature or those based on racial or religious discrimination.

Chapter II—Jurisdiction

Article 3

1. The State of registration of the aircraft is competent to exercise jurisdiction over offences and acts committed on board.

2. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction as the State of registration over offences committed on board aircraft registered in such State.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 4

A Contracting State which is not the State of registration may not interfere with an aircraft in flight in order to exercise its criminal jurisdiction over an offence committed on board except in the following cases:

a) the offence has effect on the territory of such State;

b) the offence has been committed by or against a national or permanent resident of such State;

c) the offence is against the security of such State;

d) the offence consists of a breach of any rules or regulations relating to the flight or manoeuvre of aircraft in force in such State;

e) the exercise of jurisdiction is necessary to ensure the observance of any obligation of such State under a multilateral international agreement.

Chapter III—Powers of the aircraft commander

Article 5

1. The provisions of this Chapter shall not apply to offences and acts committed or about to be committed by a person on board an aircraft in flight in the airspace of the State of registration or over the high seas or any other area outside the territory of any State unless the last point of take-off or the next point of intended landing is situated in a State other than that of registration, or the aircraft subsequently flies in the airspace of a State other than that of registration with such person still on board.

2. Notwithstanding the provisions of Article 1, paragraph 3, an aircraft shall for the purposes of this Chapter, be considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing, the provisions of this Chapter shall continue to apply with respect to offences and acts committed on board until competent authorities of a State take over the responsibility for the aircraft and for the persons and property on board.

Article 6

1. The aircraft commander may, when he has reasonable grounds to believe that a person has committed, or is about to commit, on board the aircraft, an offence or act contemplated in Article 1, paragraph 1, impose upon such person reasonable measures including restraint which are necessary:

a) to protect the safety of the aircraft or of persons or property therein; or

b) to maintain good order and discipline on board; or

c) to enable him to deliver such person to competent authorities or to disembark him in accordance with the provisions of this Chapter.

2. The aircraft commander may require or authorize the assistance of other crew members and may request or authorize, but not require, the assistance of passengers to restrain any person whom he is entitled to restrain. Any crew member or passenger may also take reasonable preventive measures without such authorization when he has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft, or of persons or property therein.

Article 7

1. Measures of restraint imposed upon a person in accordance with Article 6 shall not be continued beyond any point at which the aircraft lands unless:

a) such point is in the territory of a non-Contracting State and its authorities refuse to permit disembarkation of that person or those measures have been imposed in accordance with Article 6, paragraph 1 c) in order to enable his delivery to competent authorities;

b) the aircraft makes a forced landing and the aircraft commander is unable to deliver that person to competent authorities; or

c) that person agrees to onward carriage under restraint.

2. The aircraft commander shall as soon as practicable, and if possible before landing in the territory of a State with a person on board who has been placed under restraint in accordance with the provisions of Article 6, notify the authorities of such State of the fact that a person on board is under restraint and of the reasons for such restraint.

Article 8

1. The aircraft commander may, in so far as it is necessary for the purpose of subparagraph a) or b) or paragraph 1 of Article 6, disembark in the territory of any State in which the aircraft lands any person who he has reasonable grounds to believe has committed, or is about to commit, on board the aircraft an act contemplated in Article 1, paragraph 1 b).

2. The aircraft commander shall report to the authorities of the State in which he disembarks any person pursuant to this Article, the fact of, and the reasons for, such disembarkation.

Article 9

1. The aircraft commander may deliver to the competent authorities of any Contracting State in the territory of which the aircraft lands any person who he has reasonable grounds to believe has committed on board the aircraft an act which, in his opinion, is a serious offence according to the penal law of the State of registration of the aircraft.

2. The aircraft commander shall as soon as practicable and if possible before landing in the territory of a Contracting State with a person on board whom the aircraft commander intends to deliver in accordance with the preceding paragraph, notify the authorities of such State of his intention to deliver such person and the reasons therefor.

3. The aircraft commander shall furnish the authorities to whom any suspected offender is delivered in accordance with the provisions of this Article with evidence and information which, under the law of the State of registration of the aircraft, are lawfully in his possession.

Article 10

For actions taken in accordance with this Convention, neither the aircraft commander, any other member of the crew, any passenger, the owner or operator

of the aircraft, nor the person on whose behalf the flight was performed shall be held responsible in any proceeding on account of the treatment undergone by the person against whom the actions were taken.

Chapter IV—Unlawful Seizure of Aircraft

Article 11

1. When a person on board has unlawfully committed by force or threat thereof an act of interferencee, seizure or other wrongful exercise of control of an aircraft in flight or when such an act is about to be committed, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.

2. In the cases contemplated in the preceding paragraph, the Contracting State in which the aircraft lands shall permit its passengers and crew to continue their journey as soon as practicable, and shall return the aircraft and its cargo to the other persons lawfully entitled to possession.

Chapter V—Powers and Duties of States

Article 12

Any Contracting State shall allow the commander of an aircraft registered in another Contracting State to disembark any person pursuant to Article 8, paragraph 1.

Article 13

1. Any Contracting State shall take delivery of any person whom the aircraft commander delivers pursuant to Article 9, paragraph 1.

2. Upon being satisfied that the circumstances so warrant, any Contracting State shall take custody or other measures to ensure the presence of any person suspected of an act contemplated in Article 11, paragraph 1 and of any person of whom it has taken delivery. The custody and other measures shall be as provided in the law of the State but may only be continued for such time as is reasonably necessary to enable any criminal or extradition proceedings to be instituted.

3. Any person in custody pursuant to the previous paragraph shall be assisted in communication immediately with the nearest appropriate representative of the State of which he is a national.

4. Any Contracting State, to which a person is delivered pursuant to Article 9, paragraph 1, or in whose territory an aircraft lands following the commission of an act contemplated in Article 11, paragraph 1, shall immediately make a preliminary enquiry into the facts.

5. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the State of registration of the aircraft and the State of

nationality of the detained person and, if it considers it advisable, any other interested State of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 4 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 14

1. When any person has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1, or has disembarked after committing an act contemplated in Article 11, paragraph 1, and when such person cannot or does not desire to continue his journey and the State of landing refuses to admit him, that State may, if the person in question is not a national or permanent resident of that State, return him to the State of which he is a national or permanent resident or to the territory of the State in which he began his journey by air.

2. Neither disembarkation, nor delivery, nor the taking of custody or other measures contemplated in Article 13, paragraph 2, nor return of the person concerned, shall be considered as admission to the territory of the Contracting State concerned for the purpose of its law relating to entry or admission of persons and nothing in this Convention shall affect the law of a Contracting State relating to the expulsion of persons from its territory.

Article 15

1. Without prejudice to Article 14, any person who has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1, or has disembarked after committing an act contemplated in Article 11, paragraph 1, and who desires to continue his journey shall be at liberty as soon as practicable to proceed to any destination of his choice unless his presence is required by the law of the State of landing for the purpose of extradition or criminal proceedings.

2. Without prejudice to its law as to entry and admission to, and extradition and expulsion from its territory, a Contracting State in whose territory a person has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1, or has disembarked and is suspected of having committed an act contemplated in Article 11, paragraph 1, shall accord to such person treatment which is no less favourable for his protection and security than that accorded to nationals of such Contracting State in like circumstances.

Chapter VI—Other Provisions

Article 16

1. Offences committed on aircraft registered in a Contracting State shall be treated, for the purpose of extradition, as if they had been committed not only in

the place in which they have occurred but also in the territory of the State of registration of the aircraft.

2. Without prejudice to the provisions of the preceding paragraph, nothing in this Convention shall be deemed to create an obligation to grant extradition.

Article 17

In taking any measures for investigation or arrest or otherwise exercising jurisdiction in connection with any offence committed on board an aircraft the Contracting States shall pay due regard to the safety and other interests of air navigation and shall so act as to avoid unnecessary delay of the aircraft, passengers, crew or cargo.

Article 18

If Contracting States establish joint air transport operating organizations or international operating agencies, which operate aircraft not registered in any one State those States shall, according to the circumstances of the case, designate the State among them which, for the purposes of this Convention, shall be considered as the State of registration and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

Chapter VII—Final Clauses

Article 19

Until the date on which this Convention comes into force in accordance with the provisions of Article 21, it shall remain open for signature on behalf of any State which at that date is a Member of the United Nations or of any of the Specialized Agencies.

Article 20

1. This Convention shall be subject to ratification by the signatory States in accordance with their constitutional procedures.

2. The instruments of ratification shall be deposited with the International Civil Aviation Organization.

Article 21

1. As soon as twelve of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the twelfth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Convention comes into force, it shall be registered with the

Secretary-General of the United Nations by the International Civil Aviation Organization.

Article 22

1. This Convention shall, after it has come into force, be open for accession by any State Member of the United Nations or of any of the Specialized Agencies.

2. The accession of a State shall be effected by the deposit of an instrument of accession with the International Civil Aviation Organization and shall take effect on the ninetieth day after the date of such deposit.

Article 23

1. Any Contracting State may denounce this Convention by notification addressed to the International Civil Aviation Organization.

2. Denunciation shall take effect six months after the date of receipt by the International Civil Aviation Organization of the notification of denunciation.

Article 24

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.[1]

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the International Civil Aviation Organization.

Article 25

Except as provided in Article 24 no reservation may be made to this Convention.

Article 26

The International Civil Aviation Organization shall give notice to all States Members of the United Nations or of any of the Specialized Agencies:

a) of any signature of this Convention and the date thereof;

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[1]TS 993; 59 Stat. 1055.

b) of the deposit of any instrument of ratification or accession and the date thereof;

c) of the date on which this Convention comes into force in accordance with Article 21, paragraph 1;

d) of the receipt of any notification of denunciation and the date thereof; and

e) of the receipt of any declaration or notification made under Article 24 and the date thereof.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.

DONE at Tokyo on the fourteenth day of September One Thousand Nine Hundred and Sixty-three in three authentic texts drawn up in the English, French and Spanish languages.

This Convention shall be deposited with the International Civil Aviation Organization with which, in accordance with Article 19, it shall remain open for signature and the said Organization shall send certified copies thereof to all States Members of the United Nations or of any Specialized Agency.

WHEREAS the Senate of the United States of America by its resolution of May 13, 1969, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the Convention;

WHEREAS the Convention was duly ratified by the President of the United States of America on June 30, 1969, in pursuance of the advice and consent of the Senate;

WHEREAS it is provided in Article 21, paragraph 1, of the Convention that it shall come into force on the ninetieth day after the deposit of the twelfth instrument of ratification;

WHEREAS instruments of ratification were deposited with the International Civil Aviation Organization as follows: Portugal on November 25, 1964; the Philippines on November 26, 1965; the Republic of China on February 28, 1966; Denmark, Norway, and Sweden on January 17, 1967; Italy on October 18, 1968; the United Kingdom of Great Britain and Northern Ireland on November 29, 1968; Mexico on March 18, 1969; Upper Volta on June 6, 1969; Niger on June 27, 1969; and the United States of America on September 5, 1969;

AND WHEREAS, pursuant to the provisions of Article 21, paragraph 1, the Convention will come into force between the aforementioned States on December 4, 1969;

NOW, THEREFORE, be it known that I, Richard Nixon, President of the United States of America, do hereby proclaim and make public the Convention on Offences and Certain Other Acts Committed on Board Aircraft to the end that the same and every article and clause thereof shall be observed and fulfilled with good faith, on and after December 4, 1969, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this first day of October in the year of our Lord one thousand nine hundred sixty-nine and of the Independence of the United States of America the one hundred ninety-fourth.

[SEAL]

RICHARD NIXON

By the President:

ELLIOT L. RICHARDSON

Acting Secretary of State

2. Treaties Signed by the United States, But Not Yet in Force

International Convention for the Suppression of Terrorist Bombings, December 15, 1997 [1]

The States Parties to this Convention,

Having in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms and manifestations,

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations of 24 October 1995, [2]

Recalling also the Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 49/60 of 9 December 1994, in which, *inter alia*, "the States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States",

Noting that the Declaration also encouraged States "to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter",

Recalling further General Assembly resolution 51/210 of 17 December 1996 and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism annexed thereto,

Noting that terrorist attacks by means of explosives or other lethal devices have become increasingly widespread,

Noting also that existing multilateral legal provisions do not adequately address these attacks,

Being convinced of the urgent need to enhance international cooperation between States in devising and adopting effective and practical measures for the prevention of such acts of terrorism and for the prosecution and punishment of their perpetrators,

Considering that the occurrence of such acts is a matter of grave concern to the international community as a whole,

Noting that the activities of military forces of States are governed by rules of international law outside the framework of this

[1] Source: Official Records of the General Assembly, Fifty-second Session, Supplement No. 49 (A/52/49((Vol. 1)); New York, United Nations, 1998.

[2] See resolution 50/6. Status information appears at Document M.5.a.2, following.

Convention and that the exclusion of certain actions from the coverage of this Convention does not condone or make lawful otherwise unlawful acts, or preclude prosecution under other laws,

Have agreed as follows:

ARTICLE 1

For the purposes of this Convention:

1. "State or government facility" includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

2. "Infrastructure facility" means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel or communications.

3. "Explosive or other lethal device" means:

(a) An explosive or incendiary weapon or device that is designed, or has the capability, to cause death, serious bodily injury or substantial material damage; or

(b) A weapon or device that is designed, or has the capability, to cause death, serious bodily injury or substantial material damage through the release, dissemination or impact of toxic chemicals, biological agents or toxins or similar substances or radiation or radioactive material.

4. "Military forces of a State" means the armed forces of a State which are organized, trained and equipped under its internal law for the primary purpose of national defence or security and persons acting in support of those armed forces who are under their formal command, control and responsibility.

5. "Place of public use" means those parts of any building, land, street, waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public.

6. "Public transportation system" means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo.

ARTICLE 2

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a State or government facility, a public transportation system or an infrastructure facility:

(a) With the intent to cause death or serious bodily injury; or

(b) With the intent to cause extensive destruction of such a place, facility or system, where such destruction results in or is likely to result in major economic loss.

2. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of the present article.

3. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1 or 2 of the present article; or

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 2 of the present article; or

(c) In any other way contributes to the commission of one or more offences as set forth in paragraph 1 or 2 of the present article by a group of persons acting with a common purpose; such contribution shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the group or be made in the knowledge of the intention of the group to commit the offence or offences concerned.

ARTICLE 3

This Convention shall not apply where the offence is committed within a single State, the alleged offender and the victims are nationals of that State, the alleged offender is found in the territory of that State and no other State has a basis under article 6, paragraph 1 or paragraph 2, of this Convention to exercise jurisdiction, except that the provisions of articles 10 to 15 shall, as appropriate, apply in those cases.

ARTICLE 4

Each State Party shall adopt such measures as may be necessary:

(a) To establish as criminal offences under its domestic law the offences set forth in article 2 of this Convention;

(b) To make those offences punishable by appropriate penalties which take into account the grave nature of those offences.

ARTICLE 5

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this Convention, in particular where they are intended or calculated to provoke a state of terror in the general public or in a group of persons or particular persons, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature and are punished by penalties consistent with their grave nature.

ARTICLE 6

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

(a) The offence is committed in the territory of that State; or

(b) The offence is committed on board a vessel flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or

(c) The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State; or

(b) The offence is committed against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State; or

(c) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or

(d) The offence is committed in an attempt to compel that State to do or abstain from doing any act; or

(e) The offence is committed on board an aircraft which is operated by the Government of that State.

3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established under its domestic law in accordance with paragraph 2 of the present article. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties which have established their jurisdiction in accordance with paragraph 1 or 2 of the present article.

5. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

ARTICLE 7

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence as set forth in article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

3. Any person regarding whom the measures referred to in paragraph 2 of the present article are being taken shall be entitled to:

(a) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;

(b) Be visited by a representative of that State;

(c) Be informed of that person's rights under subparagraphs (a) and (b).

4. The rights referred to in paragraph 3 of the present article shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 of the present article shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 6, subparagraph 1 (c) or 2 (c), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. When a State Party, pursuant to the present article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 6, paragraphs 1 and 2, and, if it considers it advisable, any other interested States Parties, of the fact that that person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 1 of the present article shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

ARTICLE 8

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 6 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1 of the present article.

ARTICLE 9

1. The offences set forth in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 2 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 6, paragraphs 1 and 2.

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between State Parties to the extent that they are incompatible with this Convention.

ARTICLE 10

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 2, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

ARTICLE 11

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

ARTICLE 12

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 2 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

ARTICLE 13

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of testimony, identification or otherwise

providing assistance in obtaining evidence for the investigation or prosecution of offences under this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent; and

(b) The competent authorities of both States agree, subject to such conditions as those States may deem appropriate.

2. For the purposes of the present article:

(a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) The State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he was transferred for time spent in the custody of the State to which he was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with the present article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to his or her departure from the territory of the State from which such person was transferred.

ARTICLE 14

Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international law of human rights.

ARTICLE 15

States Parties shall cooperate in the prevention of the offences set forth in article 2, particularly:

(a) By taking all practicable measures, including, if necessary, adapting their domestic legislation, to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories, including measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize, knowingly finance or engage in the perpetration of offences as set forth in article 2;

(b) By exchanging accurate and verified information in accordance with their national law, and coordinating administrative and

other measures taken as appropriate to prevent the commission of offences as set forth in article 2;

(c) Where appropriate, through research and development regarding methods of detection of explosives and other harmful substances that can cause death or bodily injury, consultations on the development of standards for marking explosives in order to identify their origin in post-blast investigations, exchange of information on preventive measures, cooperation and transfer of technology, equipment and related materials.

ARTICLE 16

The State Party where the alleged offender is prosecuted shall, in accordance with its domestic law or applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

ARTICLE 17

The States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

ARTICLE 18

Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction and performance of functions which are exclusively reserved for the authorities of that other State Party by its domestic law.

ARTICLE 19

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.

2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention, and the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

ARTICLE 20

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of the present article. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 of the present article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

ARTICLE 21

1. This Convention shall be open for signature by all States from 12 January 1998 until 31 December 1999 at United Nations Headquarters in New York.

2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

ARTICLE 22

1. This Convention shall enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification, acceptance, approval or accession.

ARTICLE 23

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

ARTICLE 24

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at United Nations Headquarters in New York on 12 January 1998.

3. Treaties to Which the United States is not a Party

a. Convention on the Suppression of Terrorism of the South Asian Association for Regional Cooperation (SAARC) (Signed November 4, 1987) *

DOCUMENT NO. 16

CONVENTION ON THE SUPPRESSION OF TERRORISM OF THE SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION (SAARC)

(4 NOVEMBER 1987)

THE MEMBER STATES OF THE SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION (SAARC)

MINDFUL of the principles of cooperation enshrined in the SAARC Charter.

RECALLING that at the Dhaka Summit on December 7–8, 1985, the Heads of State or Government of the member States of the SAARC recognized the seriousness of the problem of terrorism as it affects the security and stability of the region.

ALSO RECALLING the Bangalore Summit Declaration of 17 November 1986, in which the Heads of State or Government of SAARC agreed that cooperation among SAARC States was vital if terrorism was to be prevented and eliminated from the region; unequivocally condemned as acts, methods and practices of terrorism as criminal and deplored their impact on life and property, socio-economic development, political stability, regional and international peace and cooperation; and recognized the importance of the principles laid down in UN Resolution 2625 (XXV) which among others required that each state should refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another state or acquiescing in organized activities within its territory directed towards the commission of such acts.

AWARE of the danger posed by the spread of terrorism and its harmful effect on peace, cooperation, friendship and good neighborly relations and which could also jeopardize the sovereignty and territorial integrity of states.

HAVE RESOLVED to take effective measures to ensure that perpetrators of terroristic acts do not escape prosecution, and to this end,

HAVE AGREED as follows:—

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* Source: Levie, Howard S., *Terrorism: Documents of International and Local Control*, Vol. 10. Dobbs Ferry, N.Y., Oceana Publications, 1996. p. 313–318. (Permission granted by Oceana Publications). Entered into force, August 22, 1988. Status information appears at Document M.5.q., following.

ARTICLE I

Subject to the overall requirements of the law of extradition, conduct constituting any of the following offences, according to the law of the Contracting State, shall be regarded as terroristic and for the purpose of an offence connected with a political offence or as an offence inspired by political motives:—

(a) An offence within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on December 16, 1970;

(b) An offence within the scope of the Convention for the Suppression of Unlawful acts against the Safety of Civil Aviation, signed at Montreal on September 23, 1971;

(c) An offence within the scope of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, signed at New York on December 14, 1973;

(d) An offence within the scope of any Convention to which the SAARC member States concerned are parties and which obliges the parties to prosecute or grant extradition;

(e) Murder, manslaughter, assault causing bodily harm, kidnapping, hostage-taking and offences relating to firearms, weapons, explosives and dangerous substances when used as a means to perpetrate indiscriminate violence involving death or serious bodily injury to persons or serious damage to property;

(f) An attempt or conspiracy to commit an offence described in sub-paragraphs (a) to (e), aiding, abetting or counselling the commission of such an offence or participating as an accomplice in the offences so described.

ARTICLE II

For the purpose of extradition between SAARC member States, any two or more Contracting States may, by agreement, decide to include any other serious offence involving violence, which shall not be regarded as a political offence or an offence connected with a political offence or an offence inspired by political motives.

ARTICLE III

1. The provisions of all extradition treaties an arrangements applicable between Contracting States are hereby amended as between Contracting States to the extent that they are incompatible with this Convention.

2. For the purpose of this Convention and to the extent that any offence referred to in Article I or agreed to in terms of Article II is not listed as an extraditable offence in any extradition treaty existing between Contracting States, it shall be deemed to be included as such therein.

3. Contracting States undertake to include these offences as extraditable offences in any future extradition treaty to be concluded between them.

4. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it option, consider this Convention as the basis for extradition in respect of the offences set forth

in Article I or agreed to in terms of Article II Extradition shall be subject to the law of the requested State.

5. Contracting States which do not make extradition conditional on the existence of a treaty, shall recognize the offences set forth in Article I or agreed to in terms of Article II as extraditable offences between themselves, subject to the law of the requested State.

ARTICLE IV

A Contracting State in whose territory a person suspected of having committed an offence referred to in Article I or agreed to in terms of Article II is found and which Contracting State, shall, if it does not extradite that person, submit the case without exception and without delay, to its competent authorities shall take their decisions in the same manner as in the case of any offence of a serious nature under the law of that State.

ARTICLE V

For the purpose of Article IV, each Contracting State may take such measure as it deems appropriate, consistent with its national laws, subject to reciprocity, to exercise its jurisdiction in the case of an offence under Article I or agreed to in terms of Article II.

ARTICLE VI

A Contracting State in whose territory an alleged offender is found, shall, upon receiving a request for extradition from another Contracting State, take appropriate measures, subject to its national laws, so as to ensure his presence for purposes of extradition or prosecution. Such measure shall immediately be notified to the requesting State.

ARTICLE VII

Contracting States shall not be obliged to extradite, if it appears to the requested State that by reason of the trivial nature of the case or by reason of the request for the surrender or return of a fugitive offender not being made in good faith or in the interests of justice or for any other reason it is unjust or inexpedient to surrender or return the fugitive offender.

ARTICLE VIII

1. Contracting States shall, subject to their national laws, afford one another the greatest measure of mutual assistance in connection with proceedings brought in respect of the offences referred to in Article I or agreed to in terms of Article II, including the supply of all evidence at their disposal necessary for the proceedings.

2. Contracting States shall cooperate among themselves, to the extent permitted by their national laws, through consultations between appropriate agencies, exchange of information, intelligence and expertise and such other cooperative measures as may be appropriate, with a view to prevention terroristic activities through precautionary measures.

ARTICLE IX

1. The Convention shall be open for signature by the member States of SAARC at the SAARC Secretariat in Kathmandu.

2. It shall be subject to ratification. Instruments of Ratification shall be deposited with the Secretary-General of SAARC.

ARTICLE X

The Convention shall enter into force on the fifteenth day following the date of the deposit of the seventh Instrument of Ratification with the Secretary-General of SAARC.

ARTICLE XI

The Secretary-General of SAARC shall be the depository of this Convention and shall notify member States of signatures to this Convention and all deposits of Instruments of Ratification. The Secretary-General shall transmit certified copies of such Instruments to each member State. The Secretary-General shall also inform member States of the date on which this Convention will have entered into force in accordance with Article X.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at Kathmandu on this Fourth Day of November One Thousand Nine Hundred and Eighty Seven in eight Originals in the English language all texts being equally authentic.

HUMAYUN RASHEED CHOUDHURY
Minister of Foreign Affairs
People's Republic of Bangladesh

K. NATWAR-SINGH
Minister of State for External Affairs
Republic of India

SHAILENDRA KUMAR UPADHYAYA
Minister for Foreign Affairs and Land Reforms
His Majesty's Government of Nepal

DAWA TSERING
Minister of Foreign Affairs
Kingdom of Bhutan

FATHULLA JAMEEL
Minister of Foreign Affairs
Republic of Maldives

ZAIN NOORANI
Minister of States for Foreign Affairs
Islamic Republic of Pakistan

A.C. SHAHUL HAMEED
Minister of Foreign Affairs
Democratic Socialist Republic of Sri Lanka

b. European Communities: Agreement Concerning the Application of The European Convention on The Suppression of Terrorism Among The Member States.

Done at Dublin, December 4, 1979. [1]

Agreement concerning the application of the European Convention on the Suppression of Terrorism among the Member States of the European Communities:

The Member States of the European Communities, Concerned to strengthen judicial cooperation among these States in the fight against acts of violence; While awaiting the ratification without reservations of the European Convention on the Suppression of Terrorism signed at Strasbourg on 27 January 1977, described below as "the European Convention", by all the Member States of the European Communities, described below as "the Member States",

Have agreed as follows:

ARTICLE 1

This Agreement shall apply in relations between two Member States of which one at least is not a party to the European Convention or is a party to that Convention, but with a reservation.

ARTICLE 2

1. In the relations between two Member States which are parties to the European Convention, but of which one at least has made a reservation to that Convention, the application of the said Convention shall be subject to the provisions of this Agreement.

2. In the relations between two Member States of which one at least is not a party to the European Convention, Articles 1 to 8 and 13 of that Convention shall apply subject to the provisions of this Agreement.

ARTICLE 3

1. Each Member State which has made the reservation permitted under Article 13 of the European Convention shall declare whether, for the application of this Agreement, it intends to make use of this reservation.

2. Each Member State which has signed the European Convention but has not ratified, accepted or approved it, shall declare whether, for the application of this Agreement, it intends to make the reservation permitted under Article 13 of that Convention.

[1] Reproduced from the text in the Bulletin of the European Communities Vol. 12, No. 12 [1979], at pp. 90–91. The Ministers of Justice of the nine Member States signed the Agreement on Dec. 4, 1979.

3. Each Member State which has not signed the European Convention may declare that it reserves the right to refuse extradition for an offense listed in Article 1 of that convention which it considers to be a political offence, an offence connected with a political offence or an offence inspired by political motives, on condition that it undertakes to submit the case without exception whatsoever and without undue delay, to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any offence of a serious nature under the law of that State.

4. For the application of this Agreement, only the reservations provided for in paragraph 3 of this Article and in Article 13 of the European Convention are permitted. Any other reservation is without effect as between the Member States.

5. A Member State which has made a reservation may only claim the application of this Agreement by another State to the extent that the Agreement itself applies to the former State.

ARTICLE 4

1. The declarations provided for under Article 3 may be made by a Member State at the time of signature or when depositing its instrument of ratification, acceptance or approval.

2. Each Member State may at any time, wholly or partially, withdraw a reservation which it has made in pursuance of paragraphs 1, 2 or 3 of Article 3 by means of a declaration addressed to the Department of Foreign Affairs of Ireland. The declaration shall have effect on the day it is received.

3. The Department of Foreign Affairs of Ireland shall communicate the declarations to the other Member States.

ARTICLE 5

Any dispute between Member States concerning the interpretation or application of this Agreement which has not been settled by negotiation shall, at the request of any party to the dispute, be referred to arbitration in accordance with the procedure laid down in Article 10 of the European Convention.

ARTICLE 6

1. This Agreement shall be open for signature by the Member States of the European Communities. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Department of Foreign Affairs of Ireland.

2. The Agreement shall enter into force three months after the deposit of the instruments of ratification, acceptance or approval by all States which are members of the European Communities on the day on which this Agreement is opened for signature.

ARTICLE 7

1. Each Member State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval,

specify the territory or territories to which this Agreement shall apply.

2. Each Member State may, when depositing its instrument of ratification, acceptance or approval or at any later date, by declaration addressed to the Department of Foreign Affairs or Ireland extend this Agreement to any other territory specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorized to give undertakings.

3. Any declaration made in pursuance of the preceding paragraph may, as regards any territory specified in that declaration, be denounced by means of a notification addressed to the Department of Foreign Affairs of Ireland. The denunciation shall have effect immediately or at such later date as may be specified in the notification.

4. The Department of Foreign Affairs of Ireland shall communicate these declarations and notifications to the other Member States.

ARTICLE 8

This Agreement shall cease to have effect on the date when all the Member States become parties without reservation to the European Convention.

Done at Dublin, this 4th day of December 1979 in German, English, Danish, French, Irish, Italian and Dutch, all texts being equally authoritative, in a single copy, which shall remain deposited in the archives of the Department of Foreign Affairs of Ireland, which shall transmit certified copies to each of the Member States.

c. Council of Europe: European Convention on the Suppression of Terrorism, January 27, 1977 *

COUNCIL OF EUROPE: EUROPEAN CONVENTION ON THE SUPPRESSION OF TERRORISM*

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its Members ;

Aware of the growing concern caused by the increase in acts of terrorism ;

Wishing to take effective measures to ensure that the perpetrators of such acts do not escape prosecution and punishment ;

Convinced that extradition is a particularly effective measure for achieving this result,

Have agreed as follows :

Article 1

For the purposes of extradition between Contracting States, none of the following offences shall be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives :

a. an offence within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970 ;

b. an offence within the scope of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971 ;

c. a serious offence involving an attack against the life, physical integrity or liberty of internationally protected persons, including diplomatic agents ;

d. an offence involving kidnapping, the taking of a hostage or serious unlawful detention ;

e. an offence involving the use of a bomb, grenade, rocket, automatic firearm or letter or parcel bomb if this use endangers persons ;

f. an attempt to commit any of the foregoing offences or participation as an accomplice of a person who commits or attempts to commit such an offence.

Article 2

1. For the purposes of extradition between Contracting States, a Contracting State may decide not to regard as a political offence or as an offence connected with a political offence or as an offence inspired by political motives a serious offence involving an act of violence, other than one covered by Article 1, against the life, physical integrity or liberty of a person.

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*Status information appears at Document M.5.q., following.

Table

Name of detection agent	Molecular formula	Molecular weight	Minimum concentration
Ethylene glycol dinitrate (EGDN)	$C_2H_4(NO_3)_2$	152	0.2% by mass
2,3-Dimethyl-2,3-dinitrobutane (DMNB)	$C_6H_{12}(NO_2)_2$	176	0.1% by mass
para-Mononitrotoluene (p-MNT)	$C_7H_7NO_2$	137	0.5% by mass
ortho-Mononitrotoluene (o-MNT)	$C_7H_7NO_2$	137	0.5% by mass

Any explosive which, as a result of its normal formulation, contains any of the designated detection agents at or above the required minimum concentration level shall be deemed to be marked.

2. The same shall apply to a serious offence involving an act against property, other than one covered by Article 1, if the act created a collective danger for persons.

3. The same shall apply to an attempt to commit any of the foregoing offences or participation as an accomplice of a person who commits or attempts to commit such an offence.

Article 3

The provisions of all extradition treaties and arrangements applicable between Contracting States, including the European Convention on Extradition, are modified as between Contracting States to the extent that they are incompatible with this Convention.

Article 4

For the purposes of this Convention and to the extent that any offence mentioned in Article 1 or 2 is not listed as an extraditable offence in any extradition convention or treaty existing between Contracting States, it shall be deemed to be included as such therein.

Article 5

Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State has substantial grounds for believing that the request for extradition for an offence mentioned in Article 1 or 2 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons.

Article 6

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over an offence mentioned in Article 1 in the case where the suspected offender is present in its territory and it does not extradite him after receiving a request for extradition from a Contracting State whose jurisdiction is based on a rule of jurisdiction existing equally in the law of the requested State.

2. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 7

A Contracting State in whose territory a person suspected to have committed an offence mentioned in Article 1 is found and which has received a request for extradition under the conditions mentioned in Article 6, paragraph 1, shall, if it does not extradite that person, submit the case, without exception whatsoever and without undue delay, to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any offence of a serious nature under the law of that State.

Article 8

1. Contracting States shall afford one another the widest measure of mutual assistance in criminal matters in connection with proceedings brought in respect of the offences mentioned in Article 1 or 2. The law of the requested State concerning mutual assistance in criminal matters shall apply in all cases. Nevertheless this assistance may not be refused on the sole

ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

2. Nothing in this Convention shall be interpreted as imposing an obligation to afford mutual assistance if the requested State has substantial grounds for believing that the request for mutual assistance in respect of an offence mentioned in Article 1 or 2 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion or that that person's position may be prejudiced for any of these reasons.

3. The provisions of all treaties and arrangements concerning mutual assistance in criminal matters applicable between Contracting States, including the European Convention on Mutual Assistance in Criminal Matters, are modified as between Contracting States to the extent that they are incompatible with this Convention.

Article 9

1. The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the application of this Convention.

2. It shall do whatever is needful to facilitate a friendly settlement of any difficulty which may arise out of its execution.

Article 10

1. Any dispute between Contracting States concerning the interpretation or application of this Convention, which has not been settled in the framework of Article 9, paragraph 2, shall, at the request of any Party to the dispute, be referred to arbitration. Each Party shall nominate an arbitrator and the two arbitrators shall nominate a referee. If any Party has not nominated its arbitrator within the three months following the request for arbitration, he shall be nominated at the request of the other Party by the President of the European Court of Human Rights. If the latter should be a national of one of the Parties to the dispute, this duty shall be carried out by the Vice-President of the Court or, if the Vice-President is a national of one of the Parties to the dispute, by the most senior judge of the Court not being a national of one of the Parties to the dispute. The same procedure shall be observed if the arbitrators cannot agree on the choice of referee.

2. The arbitration tribunal shall lay down its own procedure. Its decisions shall be taken by majority vote. Its award shall be final.

Article 11

1. This Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2. The Convention shall enter into force three months after the date of the deposit of the third instrument of ratification, acceptance or approval.

3. In respect of a signatory State ratifying, accepting or approving subsequently, the Convention shall come into force three months after the date of the deposit of its instrument of ratification, acceptance or approval.

Article 12

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Convention shall apply.

2. Any State may, when depositing its instrument of ratification, acceptance or approval or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.

3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect immediately or at such later date as may be specified in the notification.

Article 13

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, declare that it reserves the right to refuse extradition in respect of any offence mentioned in Article 1 which it considers to be a political offence, an offence connected with a political offence or an offence inspired by political motives, provided that it undertakes to take into due consideration, when evaluating the character of the offence, any particularly serious aspects of the offence, including :

a. that it created a collective danger to the life, physical integrity or liberty of persons; or

b. that it affected persons foreign to the motives behind it ; or

c. that cruel or vicious means have been used in the commission of the offence.

2. Any State may wholly or partly withdraw a reservation it has made in accordance with the foregoing paragraph by means of a declaration addressed to the Secretary General of the Council of Europe which shall become effective as from the date of its receipt.

3. A State which has made a reservation in accordance with paragraph 1 of this article may not claim the application of Article 1 by any other State ; it may, however, if its reservation is partial or conditional, claim the application of that article in so far as it has itself accepted it.

Article 14

Any Contracting State may denounce this Convention by means of a written notification addressed to the Secretary General of the Council of Europe. Any such denunciation shall take effect immediately or at such later date as may be specified in the notification.

Article 15

This Convention ceases to have effect in respect of any Contracting State which withdraws from or ceases to be a Member of the Council of Europe.

Article 16

The Secretary General of the Council of Europe shall notify the member States of the Council of :

a. any signature ;

b. any deposit of an instrument of ratification, acceptance or approval :

c. any date of entry into force of this Convention in accordance with Article 11 thereof ;

d. any declaration or notification received in pursuance of the provisions of Article 12 ;

e. any reservation made in pursuance of the provisions of Article 13, paragraph 1 ;

f. the withdrawal of any reservation effected in pursuance of the provisions of Article 13, paragraph 2 ;

g. any notification received in pursuance of Article 14 and the date on which denunciation takes effect ;

h. any cessation of the effects of the Convention pursuant to Article 15.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg, this 27 day of JAN. 1977 in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory and acceding Parties.

Entered into force on August 4, 1978. Belgium, Cyprus, Denmark, France, the Federal Republic of Germany, Iceland, It Luxembourg, the Netherlands, Norway, Portugal, Switzerland, Turkey, and the United Kingdom have signed the Conventi

The following countries have ratified the Convention:

Austria (August 11, 1977), Denmark (June 27, 1978), Federal Republic of Germany (May 3, 1978), Sweden (September 1977), and the United Kingdom (July 24, 1978)

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1. Economic Summits of the G-7/G-8 and Related Meetings

a. Denver Summit of the Eight Foreign Ministers

(1) Communique, June 22, 1997 [1]

* * * * * * *

TERRORISM

44. We reaffirm our determination to combat terrorism in all forms, irrespective of motive. We oppose concessions to terrorist demands and are determined to deny hostage-takers any benefits from their acts. We welcome the growing consensus on adopting effective and legitimate means of countering terrorism.

45. Last year, our Ministers adopted 25 recommendations to combat terrorism. We have received a positive response worldwide, in particular in the U.N. General Assembly. Together we have made substantial progress on many of these recommendations, including: drafting and negotiating a U.N. convention on terrorist bombing; promoting improved international standards for airport security, explosives detection, and vehicle identification; promoting stronger laws and export controls on the manufacture, trade and transport of explosives; initiating a directory of counter-terrorism competencies; inviting all States to promote the use of encryption which may allow, consistent with OECD guidelines, lawful government access to combat terrorism.

46. We have asked our Ministers to intensify diplomatic efforts to ensure that by the year 2000 all States join the international counterterrorism conventions specified in the 1996 U.N. resolution on measures to counter terrorism. We have instructed our officials to take additional steps: to strengthen the capability of hostage negotiation experts and counterterrorism response units; to exchange information on technologies to detect and deter the use of materials of mass destruction in terrorist attacks; to develop means to deter terrorist attacks on electronic and computer infrastructure; to strengthen maritime security; to exchange information on security practices for international special events; and to strengthen and expand international cooperation and consultation.

[1] Source: gopher://198.80.36.82:70/OR34267814–34324567-range/archives/1997/pdq.97

(2) Progress Report

JUNE 21, 1997 [1]

1. We are committed to a strategy of global integration aimed at fostering international peace and prosperity. To that end, we have continued to build on the decisions we have already taken and agreed to broaden our common efforts. Since our last meeting in Lyon, we have strengthened our cooperation on nonproliferation, anti-personnel landmines, transnational crime, counterterrorism, and UN reform. This Progress Report highlights our achievements in these areas and decisions for further joint action. We will continue to discuss these issues over the course of the coming year and review them again in Birmingham. In keeping with our strong commitment to advance international peace and security, we discussed a full range of political situations which both complemented and supplemented discussions by the Heads of the Eight.

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COUNTERTERRORISM

26. Terrorist bombings in France, Russia, the United Kingdom, the Middle East and South Asia, the seizure of hostages at the Japanese Ambassador's residence in Lima and other vicious terrorist attacks against innocents during the last year demonstrate that terrorism remains a threat to civil society. The increase in hostage taking by terrorists for the purpose of political extortion or ransom was an additional cause for concern. By making substantial progress in implementing the 25 recommendations of the 1996 Ministerial Conference on Terrorism in Paris, our governments have taken important steps to counter the terrorist threat. For example:

—To strengthen cooperation to combat and eliminate terrorism, the United Nations, at the initiative of our governments, has begun negotiations on a draft Convention on Suppression of Terrorist Bombing. To broaden further such cooperation, we have called on all states to join the international conventions on terrorism specified in the 1996 UN resolution on measures to eliminate international terrorism by the year 2000, and will intensify diplomatic efforts to achieve universal accession and adherence to these conventions.

—To strengthen our capability to investigate terrorist attacks on ground transportation, our experts held a series of technical and security consultations. To assist states in investigating terrorist crimes involving motor vehicles, we have, in inter-

[1] Source: gopher://198.80.36.82:70/OR34125059–34149176-range/archives/1997/pdq.97

national conferences, pressed for a strengthened international regime of vehicle identification numbers.

—To improve the safety of air travelers, we have worked with others in the International Civil Aviation Organization (ICAO) Council to gain adoption of higher security standards, including for explosive detection and associated equipment; ICAO members signaled their intention to seek Council approval of agreed airport security standards and of more consistent and uniform implementation of these standards.

—To prevent terrorists from abusing legitimate rights of asylum, enshrined in international law, we initiated a United Nations General Assembly Declaration serving this purpose.

—To counter, inter alia, the use of strong encryption by terrorists, we have endorsed acceleration of consultations and adoption of the OECD guidelines for cryptography policy and invited all states to develop national policies on encryption, including key management, which may allow, consistent with these guidelines, lawful government access to prevent and investigate acts of terrorism and to find a mechanism to cooperate internationally in implementing such policies.

—To improve the exchange of counterterrorism information, the United Kingdom initiated a Directory of Counterterrorism Competencies among the Eight; and the United States offered to share its counterterrorism forensic data bases through bilateral arrangements with members of the Eight.

—To prevent terrorist access to biological and toxin weapons, the participants of the Fourth Review Conference of the Bacteriological (Biological) and Toxin Weapons Convention (BTWC), at the urging of our governments, recognized the need to ensure, through the review and/or adoption of national measures, the effective fulfillment of their obligations under the Convention in order, inter alia, to exclude the use of biological and toxin weapons for terrorist or criminal activity.

—To promote further cooperation, our governments will compare their domestic legislation related to terrorist fund-raising, and ensure strong domestic laws and controls over the manufacture, trading and transport of explosives.

27. We will continue these efforts in the coming year and extend our counterterrorist cooperation to other critical spheres.

28. To protect our electronic and computer systems from disruption by terrorist attacks, we will share information and methodologies to prevent such attacks and to prevent the use of computer networks for terrorist and criminal purposes.

29. To address the continuing danger from acts of terror using high explosives and other sophisticated technologies, and from potential use by terrorists of materials of mass destruction, our experts will intensify the exchange of information in research and development of counterterrorism technologies.

30. Because of terrorist and other threats to the security of major international events, we will share information and experiences in providing security for such events. The U.S. will hold a conference of experts on this subject in Honolulu in September 1997, in order to exchange information on the most effective security practices for major international special events.

31. To heighten vigilance against acts of terror directed at maritime vessels and their passengers, our governments will encourage the International Maritime Organization (IMO) to strengthen maritime security measures and to improve the awareness and implementation of IMO standards.

32. In response to a growing international desire for closer cooperation, we will strengthen and expand international cooperation and consultation and reach out bilaterally and multilaterally, on counterterrorism issues. In this regard we welcomed the initiative by Japan to convene a Seminar on Counterterrorism for the Asia and Pacific Region in December, 1996.

b. Lyon Summit: Meeting of the G-7 Member Countries

(1) Paris Ministerial Conference on Terrorism: Agreement on 25 Measures

Text of agreement released at the Ministerial Conference on Terrorism, Paris, France, July 30, 1996. [1]

The participants at the Lyon Summit voiced their determination to give absolute priority to the fight against terrorism. They decided to examine and implement, in cooperation with all States, all measures likely to strengthen the capacity of the international community to defeat terrorism. To that end, they called for a meeting of their Foreign Ministers and their Ministers responsible for security to be held without delay to recommend further actions.

In line with this decision, we met in Paris on July 30, 1996.

We undertook a thorough review of new trends in terrorism throughout the world. We noted with deep concern the use in 1996 of powerful explosive weapons by terrorists. We reiterate our fundamental view that there can be no excuse for terrorism. Our discussions underscored our agreement on the need to find solutions that take account of all the factors likely to ensure a lasting settlement of unresolved conflicts and on the need for attending to conditions which could nurture the development of terrorism.

We noted that there is a growing commitment within the international community to condemn terrorism in whatever shape or form, regardless of its motives; to make no concessions to terrorists; and to implement means, consistent with fundamental freedoms and the rule of law, to effectively fight terrorism. We are determined to work with all States, in order to achieve the goal of eliminating terrorism, as affirmed in the Declaration adopted by the United Nations General Assembly in December 1994. To this end, we have, with the course laid down in our Ottawa Declaration of December 12, 1995 and the work that followed the Sharm el-Sheikh Summit, framed a body of practical measures which we are resolved to implement among ourselves.

We also invite all States to adopt these measures so as to impart greater efficiency and coherence to the fight against terrorism. In order to harness our own capacities more tightly we decided to establish among our countries a directory of counter-terrorism competences, skills and expertise to facilitate practical cooperation.

I. Adopting Internal Measures To Prevent Terrorism

IMPROVING COUNTER-TERRORISM COOPERATION AND CAPABILITIES

We call on all States to:

[1] Source: http://www.state.gov/www/global/terrorism/measures.html

1. Strengthen internal cooperation among all government agencies and services concerned with different aspects of counter-terrorism.

2. Expand training of personnel connected with counter-terrorism to prevent all forms of terrorist action, including those utilizing radioactive, chemical, biological or toxic substances.

3. In line with the efforts carried out in the fields of air and maritime transportation and in view of widespread terrorist attacks on modes of mass ground transportation, such as railway, underground and bus transport systems, we recommend that transportation security officials of interested States urgently intensify consultations to improve the capability of governments to prevent, investigate, and respond to terrorist attacks on means of public transportation, and to cooperate with other governments in this respect. These consultations should include standardization of passenger and cargo manifests and adoption of standard means of identifying vehicles to aid investigations of terrorist bombings.

4. Accelerate research and development of methods of detection of explosives and other harmful substances that can cause death or injury, and undertake consultations on the development of standards for marking explosives in order to identify their origin in post-blast investigations, and promote cooperation where appropriate.

DETERRENCE, PROSECUTION AND PUNISHMENT OF TERRORISTS

We call on all States to:

5. When sufficient justification exists according to national laws, investigate the use of organizations, groups or associations, including those with charitable, social, or cultural goals, by terrorists using them as cover for their own activities.

6. Note the risk of terrorists using electronic or wire communications systems and networks to carry out criminal acts and the need to find means, consistent with national law, to prevent such criminality.

7. Adopt effective domestic laws and regulations including export controls to govern manufacture, trading, transport, and export of firearms, explosives, or any device designed to cause violent injury, damage, or destruction in order to prevent their use for terrorists' acts.

8. Take steps within their power to immediately review and amend as necessary their domestic anti-terrorist legislation to ensure, inter alia, that terrorists' acts are established as serious criminal offenses and that the seriousness of terrorists' acts is duly reflected in the sentence served.

9. Bring to justice any person accused of participation in the planning, preparation, or perpetration of terrorist acts or participation in supporting terrorist acts.

10. Refrain from providing any form of support, whether active or passive, to organizations or persons involved in terrorist activity.

11. Accelerate consultations, in appropriate bilateral or multilateral fora, on the use of encryption that allows, when necessary, lawful government access to data and communications in order to, inter alia, prevent or investigate acts of terrorism, while protecting the privacy of legitimate communications.

ASYLUM, BORDERS AND TRAVEL DOCUMENTS

We call on all States to:

12. Take strong measures to prevent the movement of terrorist individuals or groups by strengthening border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery, or use of false papers.

13. While recognizing that political asylum and the admission of refugees are legitimate rights enshrined in international law, make sure that such a right should not be taken advantage of for terrorist purposes and seek additional international means to address the subject of refugees and asylum seekers who plan, fund, or commit terrorist acts.

II. Strengthening International Cooperation To Fight Terrorism

EXPANDING INTERNATIONAL TREATIES AND OTHER ARRANGEMENTS

We call on all States to:

14. Join international conventions and protocols designed to combat terrorism by the year 2000; enact domestic legislation necessary to implement them; affirm or extend the competence of their courts to bring to trial the authors of terrorist acts; and if needed, provide support and assistance to other governments for their purposes.

15. Develop, if necessary, especially by entering into bilateral and multilateral agreements and arrangements, mutual legal assistance procedures aimed at facilitating and speeding investigations and collecting evidence, as well as cooperation between law enforcement agencies in order to prevent and detect terrorist acts.

In cases where a terrorist activity occurs in several countries, States with jurisdiction should coordinate their prosecutions and the use of mutual assistance measures in a strategic manner so as to be more effective in the fight against terrorist groups.

16. Develop extradition agreements and arrangements, as necessary, in order to ensure that those responsible for terrorists acts are brought to justice; and consider the possibility of extradition even in the absence of a treaty.

17. Promote the consideration and development of an international convention on terrorist bombings or other terrorist acts creating collective danger for persons, to the extent that the existing multilateral counter-terrorism conventions do not provide for cooperation in these areas. Examine, also, the necessity and feasibility of supplementing existing international instruments and arrangements to address other terrorist threats and adopt new instruments as needed. Accelerate in the International Civil Aviation Organization (ICAO) consultations to establish uniform and strict international standards for bomb detection and the ongoing consultations to elaborate and adopt additional heightened security measures at airports, and urge early implementation of screening procedures and all other ICAO standards already agreed upon.

18. We recommend to States Parties to the Biological Weapons Convention that they confirm at the forthcoming Review Con-

ference their commitment to ensure, through adoption of national measures, the effective fulfillment of their obligations under the convention to take any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition or retention of such weapons within their territory, under their jurisdiction or under their control anywhere, in order, inter alia, to exclude use of those weapons for terrorist purposes.

TERRORIST FUND RAISING

We call on all States to:

19. Prevent and take steps to counteract, through appropriate domestic measures, the financing of terrorists and terrorist organizations, whether such financing is direct or indirect through organizations which also have, or claim to have charitable, social or cultural goals, or which are also engaged in unlawful activities such as illicit arms trafficking, drug dealing, and racketeering. These domestic measures may include, where appropriate, monitoring and control of cash transfers and bank disclosure procedures.

20. Intensify information exchange concerning international movements of funds sent from one country or received in another country and intended for persons, associations, or groups likely to carry out or support terrorist operations.

21. Consider, where appropriate, adopting regulatory measures in order to prevent movements of funds suspected to be intended for terrorist organizations, without impeding in any way the freedom of legitimate capital movements.

IMPROVING INFORMATION EXCHANGE ON TERRORISM

We call on all States to:

22. Facilitate exchange of information and the transmission of legal requests through establishing central authorities so organized as to provide speedy coordination of requests, it being understood that those central authorities would not be the sole channel for mutual assistance among states. Direct exchange of information among competent agencies should be encouraged.

23. Intensify exchange of basic information concerning persons or organizations suspected of terrorist-linked activities, in particular on their structure, their "modus operandi" and their communications systems in order to prevent terrorist actions.

24. Intensify exchange of operation information, especially as regards:

- the actions and movements of persons or groups suspected of belonging to or being connected with terrorist networks.
- travel documents suspected of being forgeries or falsified.
- traffic in arms, explosives, or sensitive materials.
- the use of communications technologies by terrorist groups.
- the threat of new type of terrorist activities including those using chemical, biological, or nuclear materials and toxic substances.

25. Find ways of accelerating these exchanges of information and making them more direct, while at the same time preserving their

confidentiality in conformity with the laws and regulations of the State supplying the information.

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We commit ourselves to ensure implementation of these measures without delay. To this end, we call upon our appropriate experts to hold the necessary meetings very rapidly.

We ask our experts on terrorism to meet before the end of the year to assess the progress of the work undertaken to implement these measures.

(2) G-7 Declaration on Terrorism

Released at the G-7 Economic Summit, Lyon, France, June 27, 1996 [1]

In the aftermath of the cowardly attack in Dhahran, which took the lives of a large number of American citizens and injured hundreds of innocent people, we, the member countries of the G-7, condemn this barbarous and unjustifiable act and express our wholehearted solidarity with the United States and Saudi Arabia in their terrible ordeal. We pay tribute to the memory of the victims and convey our deepest sympathy to their families, as well as to the American and Saudi peoples. We also condemn other recent terrorist outrages.

These tragedies strengthen us in our conviction that terrorism is a major challenge to all our societies and states today. We reaffirm our absolute condemnation of terrorism in all its forms and manifestations, regardless of its perpetrators or motives. Terrorism is a heinous crime, and there must be no excuse or exception in bringing its perpetrators to justice.

We proclaim our common resolve to unite our efforts and our determination to fight terrorism by all legal means. In keeping with the guidelines for action adopted by the Eight in Ottawa, we strongly urge all states to deny all support to terrorists. We rededicate ourselves and invite others to associate with our efforts in order to thwart the activities of terrorists and their supporters, including fund-raising, the planning of terrorist acts, procurement of weapons, calling for violence, and incitements to commit terrorist acts. Special attention should be paid to the threat of utilization of nuclear, biological, and chemical materials, as well as toxic substances, for terrorist purposes.

We consider the fight against terrorism to be our absolute priority, and reiterate the necessity for all states to adhere to the relevant international conventions. When implemented, many of the recommendations the Eight will be considering tomorrow to deal with crime will better equip our law enforcement authorities to work together to combat terrorism. And we are resolved to do more: to examine and implement, in cooperation with all states, all measures liable to strengthen the capacity of the international community to defeat terrorism. To that end, we have decided that a ministerial meeting to consider and recommend further actions will be held in Paris, as early as the month of July.

[1] Source: Released at the Lyon Summit, 27 June 1996 and provided by the University of Toronto Library. (http://utl.1library.utoronto.ca/disk1/www/documents/g7/96terror.htm)

c. Ottawa Ministerial Declaration on Countering Terrorism December 12, 1995[1]

PREAMBLE

1. We met in Ottawa on December 12, as agreed upon at the Halifax Summit in June 1995 by the Heads of State and Government of the seven most industrialized nations and Russia, to discuss specific, cooperative measures to deter, prevent and investigate terrorist acts. We fulfilled our mandate and are united in our determination to work together with the entire international community to combat terrorism in all its forms.

G–7/P–8 HISTORY

2. Since 1978, the G–7 partners have worked together to counter terrorism. Their cooperation has been instrumental in obtaining agreements in many fora on issues such as transportation security and the exchange of information. There has also been extensive work by the G–7, over the course of the last two decades on ensuring that loopholes in national legislation are closed, and that countries act in concert in denying arms and free movement to terrorists. These efforts have shown leadership to the international community as a whole. Russia's experience and participation is of great assistance in supporting the efforts of Summit partners in combating terrorism.

REVIEW OF RECENT TRENDS

3. We began by exchanging views on recent major terrorist events including the Tokyo subway attacks, the bombing in Oklahoma City, the hostage taking in Budennovsk, major terrorist attacks against the Middle East peace process (including the assassination of Yitzhak Rabin), the persistent attacks by the ETA, the bombing campaign in France, and the bombings in Riyadh and Islamabad. These and other events point to a number of trends including an upsurge in domestic terrorism, an increase in hostage taking and indiscriminate violence by religious extremists and apocalyptic groups which practice terrorism, as well as continuing examples of attacks on tourists and the export regional conflicts. These developments have been accompanied by a continuing use of conventional weapons, in particular those designed for massive explosions, and by a new and worrying use of non-conventional, for example chemical, weapons. We call for political groups to use dialogue, exercise tolerance and repudiate the use of terrorism. We offer dialogue to those who reject violence and respect the law. Those who attempt to achieve their aims through violence will,

[1] Source: http://www.state.gov/www/global/terrorism/ottawa—declaration.html

however, meet with our strongest resolve and be held accountable for their criminal acts.

IMPROVED INTERNATIONAL COOPERATION

4. We are determined to work together in the international community, with international organizations, institutions and other fora to fight terrorism. We will work in all organizations of the UN family, the General Assembly and all other appropriate fora to identify and adopt practical measures to fight terrorism, including where necessary legal instruments. We will work bilaterally and multilaterally, taking full advantage of such organizations as Interpol, to improve measures against terrorism. We will propose and support information sharing with and among members of other regional organizations. We welcome, for example, the efforts made in the context of the recent sub-regional meeting in Buenos Aires, and the prospects for the OAS Ministerial meetings on terrorism.

INTERNATIONAL AND DOMESTIC LEGAL FRAMEWORK

5. We call on all states to strive to become party to the existing international conventions concerned with countering terrorism and urgently bring their domestic legislation into harmony with those conventions by the year 2000. It is our view that strong laws, effectively enforced, continue to be a convincing deterrent in combating terrorism. We call upon all States that assist terrorists to renounce terrorism and to deny financial support. All perpetrators of terrorist acts must be brought to swift justice. Stronger law enforcement cooperation and mutual legal assistant are among the measures best suited to deter and prevent international terrorist acts and punish terrorists. We have decided to have our experts continue to explore new ways of enhancing the current international legal regime, in particular to address new forms of terrorism. To avoid terrorists escaping punishment we call on all States to strengthen their domestic, bilateral or international extradition arrangements and to consider adoption of additional instruments.

EXCHANGE OF EXPERTISE AND INFORMATION TO PREVENT TERRORIST ACTS

6. One of the more effective tools we have to counter terrorism is sharing information among ourselves and with others. Terrorists operate secretively. Intelligence concerning terrorists, their movements, their support and their weapons are essential for countering their activities and enforcing laws against terrorism. Increasing the sharing of expertise, information, and intelligence between our countries and among the international community, is essential for countering terrorism. With an aim to preventing terrorist acts we propose to:

- share our technical knowledge, intelligence, forecasts of threats and activities and information on different tactics and methods, means, of terrorists through closer bilateral and other forms of co-operation among police and security agencies and other relevant authorities;

- share more widely information, including consular travel advisories, on countries where there is a threat to our citizens abroad;
- share expertise on the protection of public buildings and facilities;
- share information on fanatical and apocalyptic terrorist groups;
- increase counter-terrorism training and assistance;
- improve procedures for the tracing and tracking of suspected terrorists; and
- enhance information sharing on major terrorist incidents in a timely fashion.

TAKING OF HOSTAGES

7. We noted the sinister increase in the taking of hostages by terrorists and other criminals. We call on all states that have not already done so to adhere to the 1979 International Convention Against the Taking of Hostages. We call on all States to condemn the practice of hostage-taking; to refuse to make substantive concessions to hostage-takers; to work for the safety of those taken hostage; to deny to hostage takers any benefits from their criminal acts; to work tirelessly together to resolve ongoing hostage cases, and to bring to justice those responsible.

NEW THREATS RELATED TO WEAPONS OF MASS DESTRUCTION

8. We intend to strengthen measures to prevent the use of weapons designed to induce high casualty rates and encourage others to do likewise. We also noted with deep concern the chemical gas attacks on the Tokyo subway system which caused deaths and widespread injury. We urge all Governments to take the strongest measures to prevent toxic chemicals and biological agents from getting into the hands of terrorists and to adopt appropriate national legislation and controls in line with the Chemical Weapons and Biological and Toxin Weapons Conventions. We invite countries who have already taken such measures to share their expertise with those who wish to take such measures. We have agreed to exchange information among ourselves and with others. We will implement measures to deter and respond to chemical and biological terrorist threats and incidents and to investigate and prevent the illicit production, trafficking, possession and use of such substances. We encourage other governments to join in this effort. We ask our experts in this area to meet and further pursue development of these measures. We have asked the experts concerned with the preparation of the Moscow Summit on Nuclear Safety and Security to be held in spring of 1996 to also consider measures, taking into account the 1980 Convention on the Physical Protection of Nuclear Materiel, to prevent nuclear materiel falling into the hands of terrorists.

PREVENTING THE MOVEMENT OF TERRORISTS

9. Effective entry controls, assisted by new and emerging technologies, will help prevent the spread of terrorism. We, therefore, propose to cooperate further in the development of travel documents which are more difficult to falsify and to increase joint train-

ing and information sharing among ourselves, and with others, on fraudulent travel document detection and immigration control. In this regard we recognized the importance of the ICAO standards being adopted and urge all countries to implement them. We also call on all States to enforce sanctions against the use of false and fraudulent documents. Within the framework of international law and in our own jurisdictions we will deny entry to all those, including diplomats, who, on the basis of available information, are involved in terrorist activities and thereby pose a threat to national security.

TRANSPORTATION SECURITY

10. We have agreed to work together and with others to continue to improve security of all forms of transportation around the world. To date there are seven international conventions and treaties related to transportation security which have had a marked impact on maritime and aviation security. We encourage the current work of the International Civil Aviation Organization (ICAO) and the International Maritime Organization (IMO) to develop common standards for security procedures to boost security in the aviation and maritime fields. Their resolutions must be implemented by the entire international community with an aim of fighting international mechanisms in the fight against terrorism.

PUBLIC FACILITIES

11. Terrorists take advantage of the openness and vulnerability of public facilities, particularly in free societies. As anti-terrorist measures have become more successful, terrorists are looking to new targets of opportunity in their attacks. In order to reduce the risks to our citizens, we pledge to cooperate further and to share information and experiences concerning the protection and securing of possible targets such as transport systems, information systems, public utilities, and public buildings including diplomatic premises.

TERRORISM FUNDING

12. We have agreed to pursue measures aimed at depriving terrorists of their sources of finance. We encourage all States to take action in cooperation with other States, to prevent terrorists from raising funds that in any way support terrorist activities and explore the means of tracking and freezing assets used by terrorist groups.

CONCLUSION AND GUIDELINES FOR ACTION

13. We are determined as a group to continue to provide leadership on this issue to the international community, using bilateral and multilateral measures and agreements to counter terrorism. We will continue to develop specific, cooperative measures to deter, prevent, and investigate terrorist acts and to bring terrorist to justice. We will take action to implement the guidelines set forth in this declaration and summarized as follows:

- calling on all states to strive to join existing international treaties on terrorism by the year 2000;

- promoting mutual legal assistance and extradition;
- strengthening the sharing of intelligence and information on terrorism;
- pursuing measures to prevent terrorist use of nuclear, chemical and biological materials;
- urging all States to refuse to make substantive concessions to hostage takers and to ensure those responsible are brought to justice;
- inhibiting the movement of terrorists and enhancing measures to prevent the falsification of documents;
- strengthening protection of aviation, maritime and other transportation systems against terrorism;
- countering terrorist attacks against public facilities and infrastructures; depriving terrorists of funds; and
- increasing counter-terrorism training and assistance.

d. Halifax: Chairman's Statement, June 17, 1995 [1]

Partial text of statement issued at Halifax, Nova Scotia, June 17, 1995.

1. In this 50th anniversary of the end of the Second World War and the birth of the United Nations, we discussed in a spirit of cooperation political issues of global importance. Noting with satisfaction what has been achieved through reconciliation and cooperation, we confirmed our desire to work together ever more closely in finding solutions.

COMMITMENT TO MULTILATERAL ENGAGEMENT

2. We reaffirm our commitment to the UN, whose Charter lays down the fundamental principles for an international order based on peace and security, sustainable development, and respect for human rights. We support measures to strengthen the UN, which is called upon to play an ever more important role in the post Cold War period, and will work with other Member States to build, through concrete reforms of the institutions, a more effective and efficient organization to meet the challenges of the next half-century. We call upon Member States to meet their financial obligations and urge early agreement on reform of the system of assessment.

3. The United Nations must be able to act more quickly and effectively to address threats to international peace and security. We, for our part, are determined to coordinate more closely our individual efforts to assist in the prevention, management and resolution of conflicts. A high priority should be placed on the early warning of crises, political mediation and, in accordance with realistic mandates, the rapid deployment of UN civilian and military personnel, including peacekeepers, to areas of conflict. We encourage further efforts to improve operational planning and procedures for peacekeeping missions as well as to modernize command and control equipment, logistical arrangements and facilities. We also stress the need for measures to ensure the security of UN personnel, including the early entry into force of the recently-adopted UN Convention for the Safety of United Nations and Associated Personnel. We welcome the growing role of regional organizations and arrangements in building stability and security, in the prevention and management of conflicts, and we attach special importance to reinforcing cooperation between such organizations and the United Nations.

[1] Source: U.S. Department of State: G–7 Economic Summit Page (http://www.state.gov/www/issues/economic/chairman.html).

ARMS CONTROL AND DISARMAMENT

4. We welcome the indefinite extension of the Nuclear Non-Proliferation Treaty and the commitment of States party to the universalisation of the Treaty as well as their decisions to strengthen the review process and adopt a set of principles and objectives for non-proliferation and disarmament. The entry into force of START I is a major landmark in the process of nuclear arms control, which was greatly helped by the decision of Ukraine to accede to the NPT. We now look forward to the early ratification of START II. We support the safe and secure dismantlement of the nuclear weapons eliminated under START I and we welcome the work of the United States and Russia on measures that the fissile material from these weapons is rendered unusable for weapons purposes. The disposal of weapons-grade plutonium deserves particular attention and we encourage its further study.

5. We are encouraged by the growing international recognition of the need to complete without delay universal, comprehensive and verifiable treaties to ban nuclear weapons tests and to cut off the production of fissile material for nuclear weapons and other nuclear explosive devices. Recognizing the continuing dangers posed worldwide by criminal diversion and illicit trafficking of nuclear materials, and drawing on the decisions taken in Naples and the practical work undertaken by our experts since then, we resolve to work together to strengthen systems of control, accounting and physical security for nuclear materials; to expand our cooperation in the area of customs, law enforcement and intelligence and to strengthen through venues such as the IAEA and INTERPOL the international community's ability to combat nuclear theft and smuggling. We emphasize the importance of bringing the Chemical Weapons Convention into force at the earliest possible date, and call for rapid progress in developing verification systems for the Biological and Toxin Weapons Convention.

6. The excessive transfer of conventional arms, in particular to areas of conflict, is one of our main preoccupations. We are appalled by the continuing injuries to civilians caused by anti-personnel landmines. We urge States to become party to the 1980 Conventional Weapons Convention and to participate in its review conference this fall in an effort to strengthen multilateral controls over anti-personnel landmines. We urge all countries to support full implementation of the UN Register of Conventional Arms, and note that Article 26 of the UN Charter calls for "the least diversion for armaments of the world's human and economic resources". Regional organizations can help promote transparency and confidence-building measures that reduce excessive stockpiling of conventional weapons. We shall work with others for effective and responsible export controls on arms and sensitive dual-use goods and technologies.

PROMOTING NEW APPROACHES

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9. We restate our resolve to defeat all forms of terrorism. Following recent outrages, we agree to share more intensively our experiences of, and lessons learned from, major terrorist incidents,

and to strengthen our cooperation in all areas of counter-terrorism, including research and technology. We call upon all States that assist terrorists to renounce terrorism and to deny financial support, the use of their territory or any other means of support to terrorist organizations. We attach particular importance to measures to impede the ability of terrorist organizations to raise funds, and urge other governments to strenuously enforce laws against terrorist activity and join existing treaties and conventions against terrorism. In pursuit of these shared aims, we charge our terrorism experts group to report to a ministerial level meeting on specific, cooperative measures to deter, prevent, and investigate terrorists acts. These sessions should be held prior to our next meeting.

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MIDDLE EAST AND AFRICA

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19. We call upon the Government of Iran to participate constructively in regional and world affairs, and to desist from supporting radical groups that seek to destroy the Middle East Peace Process and destabilize the region. We also call on the Iranian Government to reject terrorism and, in particular, to withdraw its support from the continuing threats to the life of Mr. Salman Rushdie and others associated with his work. We call on all States to avoid any collaboration with Iran which might contribute to the acquisition of a nuclear weapons capability.

20. We reiterate our resolve to enforce full implementation of each and every relevant UN Security Council resolution concerning Iraq and Libya until they are complied with, and recall that such implementation would entail the reassessment of sanctions. We urge Iraq to reconsider its rejection of UN Security Council Resolution 986 which would permit the sale of oil and purchase of humanitarian goods.

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AMERICAS

29. We encourage implementation by the States of the Americas of the Miami Summit Plan of Action to strengthen democratic institutions, eliminate the threat of terrorism, eradicate poverty and discrimination, conserve their natural environment, and negotiate the Free Trade Area of the Americas. We support the Government of Mexico's bold steps towards political reform and dialogue. We commend the efforts of the Guarantor Group of the Rio Protocol to help Peru and Ecuador achieve a permanent peace between them. We support international cooperation in Haiti's economic and democratic development, and look forward to free and open legislative elections scheduled for June 25.

Thank you.

e. Naples: Chairman's Statement (excerpt), July 10, 1994[1]

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4. We have welcomed the Israeli-Palestinian Declaration of Principles and the signing of the Gaza-Jericho agreement as a first step in its implementation. We recognize the need to speed up the delivery of assistance and create the circumstances for a real improvement of living conditions. Progress on the other bilateral tracks and in the multilateral negotiations is now essential in order to achieve a lasting and comprehensive settlement of the Arab-Israeli dispute and a wider process of peace and cooperation in the whole Middle East/ Mediterranean region. We call upon the League of Arab States to end their boycott of Israel. We support the efforts of reconstruction of a prosperous and independent Lebanon.

We reiterate our resolve to enforce full implementation of each and every relevant UN Security Council resolution concerning Iraq and Libya until they are complied with, and recall that such implementation would entail the reassessment of sanctions.

We call upon the government of Iran to participate constructively in international efforts for peace and stability and to modify its behavior contrary to these objectives, inter alia with regard to terrorism.

We support the Algerian government's decision to move forward on economic reforms, which must be pursued with determination, while urging Algerian¢leaders to continue a political dialogue with all elements of Algerian society rejecting violence and terrorism. We condemn the recent massacre of Italian sailors and other victims, and express our condolences to their families.

We call upon the government of the Republic of Yemen to resolve political differences within the country through dialogue and by peaceful means, and to ensure that the humanitarian situation, particularly in and around Aden, is addressed. International obligations, including sovereignty and territorial integrity, should be respected.

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10. We condemn terrorism in all its forms, especially when state-sponsored, and reaffirm our resolve to cooperate in combating it with determination. We call upon all countries involved to renounce support for terrorism, including financial support, and to take effective action to deny the use of their territory to terrorist organization.

We stress that all organized crime and narcotics trafficking are a threat to political as well as economic and social life, and we call for increased international cooperation. We have agreed that the proposed world ministerial conference to be held in October in

[1] Source: University of Toronto Library and the G8 Research Group Web site at http://www.library.utoronto.ca/g7/summit/1994naples/chairman.html

Naples at the initiative of the Italian government will be a most important occasion to advance such cooperation.

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f. Tokyo: Political Declaration (excerpt), July 8, 1993[1]

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4. The protection of human rights is the obligation of all nations, as affirmed at the World Conference on Human Rights in Vienna. The increased number of refugees and displaced persons as well as the problems of uncontrolled migration and difficulties confronted by national minorities require urgent attention by the international community, and should be tackled taking account of their root causes. Terrorism, particularly when sponsored by states, poses a grave danger which we will oppose energetically.

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[1] Source: http://www.g8kyushu-okinawa.go.jp/e/past__summit/19/e19__b.html.

g. Munich: Chairman's Statement (excerpt), July 7, 1992 [1]

TERRORISM

We condemn terrorism in all its forms and reaffirm our resolve to cooperate in combatting it. We call upon all countries involved to renounce support for terrorism, including financial support, and to take effective action to deny the use of their territory to terrorist organizations.

We denounce equally strongly the taking of hostages. We welcome the recent release of two hostages in Lebanon. We call again for the immediate and unconditional release of all hostages who may still be held and for an accounting for all persons taken hostage who may have died while being held.

We underline the need for Libya to comply with [UN] Security Council Resolutions 731 and 748 promptly and fully. We call upon all countries to enforce rigorously the sanctions against Libya so that those responsible for the bombings of PA [Pan Am flight] 103 and UTA [flight] 772 may be brought to justice and Libya's support for terrorism is ended.

We support the measures of the International Civil Aviation Organization aimed at increased security in Civil Aviation. We consider the Convention on the Marking of Plastic Explosives for the Purposes of Detection to be a significant step towards this aim.

[1] Source: http://www.g8kyushu-okinawa.go.jp/e/past__summit/18/e18__d.html.

h. Houston: Statement on Terrorism, July 10, 1990[1]

HOUSTON ECONOMIC SUMMIT STATEMENT ON TRANSNATIONAL ISSUES, JULY 10, 1990

Terrorism

We, the Heads of State or Government, reaffirm our condemnation of terrorism in all its forms, our commitment to make no concessions to terrorists or their sponsors, and our resolve to continue to cooperate in efforts to combat terrorism. We demand that those governments which provide support to terrorists end such support immediately. We are determined not to allow terrorists to remain unpunished, but to see them brought to justice in accordance with international law and national legislation.

We welcome the recent release of several hostages, but remain deeply concerned that hostages are still being held, some for more than five years. Their ordeal and that of their families must end. We call for the immediate, unconditional and safe release of all hostages and for an accounting of all persons taken hostage who may have died while being held. We call on those with influence over hostage-takers to use their influence to this end.

We note with deep concern the continuing threat presented to civil aviation by terrorist groups, as demonstrated by such outrages as the sabotage of civil aircraft over Lockerbie, Scotland on December 21, 1988, above Niger on September 19, 1989, and over Colombia on November 27, 1989. We reiterate our determination to fight terrorists assaults against civil aviation.

Accordingly, we will continue our cooperation to negotiate a convention requiring the introduction of additives into plastic explosives to aid in their detection. We pledge to work to strengthen international civil aviation security standards. Consistent with this objective, we note the importance of making available training and technical assistance to other nations. We support initiatives undertaken through the International Civil Aviation Organization (ICAO) regarding this issue. We will work together with ICAO to expand such assistance.

[1] Source: http://www.g8kyushu-okinawa.go.jp/e/past__summit/16/e16__c.html.

i. Toronto: Statement on International Terrorism June 20, 1988[1]

TORONTO ECONOMIC SUMMIT: POLITICAL DECLARATION, JUNE 20, 1988

Terrorism

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11. We strongly reaffirm our condemnation of terrorism in all its forms, including the taking of hostages. We renew our commitment to policies and measures agreed at previous Summits, in particular those against state-sponsored terrorism.

12. We strongly condemn recent threats to air security, in particular the destruction of a Korean airliner and the hijacking of a Kuwaiti airliner. We recall the principle affirmed in previous declarations that terrorists must not go unpunished. We appeal to all countries who are not party to the international conventions on civil aviation security, in particular the Hague Convention, to accede to those conventions.

13. We express support for work currently under way in the International Civil Aviation Organization aimed at strengthening international protection against hijackings. We welcome the most recent declaration adopted by the ICAO Council which endorses the principle that hijacked aircraft should not be allowed to take off once they have landed, except in circumstances as specified in the ICAO declaration.

14. We welcome the adoption this year in Montreal and Rome of two international agreements on aviation and maritime security to enhance the safety of travellers.

15. We affirm our determination to continue the fight against terrorism through the application of rule of law, the policy of no concessions to terrorists and their sponsors, and international cooperation.

[1] From *Weekly Compilation of Presidential Documents*, Monday, June 27, 1988, Vol. 24, No. 25.

j. Venice: Statement on Terrorism, June 9, 1987 [1]

TERRORISM

We, the heads of state or government of seven major democracies and the representatives of the European Community assembled here in Venice, profoundly aware of our peoples' concern at the threat posed by terrorism:

Reaffirm our commitment to the statements on terrorism made at previous summits, in Bonn, Venice, Ottawa, London and Tokyo:

Resolutely condemn all forms of terrorism, including aircraft hijackings and hostage-taking, and reiterate our belief that whatever its motives, terrorism has no justification;

Confirm the commitment of each of us to the principle of making no concessions to terrorists or their sponsors;

Remain resolved to apply, in respect of any state clearly involved in sponsoring or supporting international terrorism, effective measures within the framework of international law and in our own jurisdictions;

Welcome the progress made in international cooperation against terrorism since we last met in Tokyo in May 1986, and in particular the initiative taken by France and Germany to convene in May in Paris a meeting of ministers of nine countries, who are responsible for counterterrorism;

Reaffirm our determination to combat terrorism both through national measures and through international cooperation among ourselves and with others, when appropriate, and therefore renew our appeal to all like-minded countries to consolidate and extend international cooperation in all appropriate fora;

Will continue our efforts to improve the safety of travelers. We welcome improvements in airport and maritime security, and encourage the work of I.C.A.O. and I.M.O. in this regard. Each of us will continue to monitor closely the activities of airlines which raise security problems. The heads of state or government have decided to measures, annexed to this statement, to make the 1978 Bonn Declaration more effective in dealing with all forms of terrorism affecting civil aviation;

Commit ourselves to support the rule of law in bringing terrorists to justice. Each of us pledges increased cooperation in the relevant fora and within the framework of domestic and international law on the investigation, apprehension and prosecution of terrorists. In particular we reaffirm the principle established by relevant international conventions of trying or extraditing, according to national laws and those international conventions, those who have perpetrated acts of terrorism.

[1] From "Venice Statements on East-West Relations, Terrorism and the Persian Gulf", *New York Times*, June 10, 1987.

ANNEX

The heads of state and government recall that in their Tokyo statement on international terrorism they agreed to make the 1978 Bonn Declaration more effective in dealing with all forms of terrorism affecting civil aviation. To this end, in cases where a country refuses extradition or prosecution of those who have committed offenses described in the Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation and/or does not return the aircraft involved, the heads of state or government are jointly¢resolved that their Governments shall take immediate action to cease flights to that country as stated in the Bonn Declaration.

At the same time, their governments will initiate action to halt incoming flights from that country or from any country the airlines of the country concerned as stated in the Bonn Declaration.

The heads of state or government intend also to extend the Bonn Declaration in due time to cover any future relevant amendment to the above convention or any other aviation conventions relating to the extradition or prosecution of the offenders.

The heads of state or government urge other governments to join them in this commitment.

k. Tokyo: Statement on International Terrorism, May 5, 1986[1]

TOKYO ECONOMIC SUMMIT

Statement on International Terrorism. May 5, 1986

1. We, the Heads of State or Government of seven major democracies and the representatives of the European Community, assembled here in Tokyo, strongly reaffirm our condemnation of international terrorism in all its forms, of its accomplices and of those, including governments, who sponsor or support it. We abhor the increase in the level of such terrorism since our last meeting, and in particular its blatant and cynical use as an instrument of government policy. Terrorism has no justification. It spreads only by the use of contemptible means, ignoring the values of human life, freedom and dignity. It must be fought relentlessly and without compromise.

2. Recognizing that the continuing fight against terrorism is a task which the international community as a whole has to undertake, we pledge ourselves to make maximum efforts to fight against that scourge. Terrorism must be fought effectively through determined, tenacious, discreet and patient action combining national measures with international cooperation. Therefore, we urge all like-minded nations to collaborate with us, particularly in such international fora as the United Nations, the International Civil Aviation Organization, drawing on their expertise to improve and extend countermeasures against terrorism and those who sponsor or support it.

3. We, the Heads of State or Government, agree to intensify the exchange of information in relevant fora on threats and potential threats emanating from¢terrorist activities and those who sponsor or support them, and on ways to prevent them.

4. We specify the following as measures open to any government concerned to deny to international terrorists the opportunity and the means to carry out their aims, and to identify and deter those who perpetrate such terrorism. We have decided to apply these measures within the framework of international law and in our own jurisdictions in respect of any state which is clearly involved in sponsoring or supporting international terrorism, and in particular of Libya, until such time as the state concerned abandons its complicity in, or support for, such terrorism. These measures are:

—refusal to export arms to states which sponsor or support terrorism;

[1] From *Weekly Compilation of Presidential Documents*, Monday, May 12, 1986, Vol. 22, No. 19.

—strict limits on the size of the diplomatic and consular missions and other official bodies abroad of states which engage in such activities, control of travel of members of such missions and bodies, and, where appropriate, radical reductions in, or even the closure of, such missions and bodies;

—denial of entry to all persons, including diplomatic personnel, who have been expelled or excluded from one of our states on suspicion of involvement in international terrorism or who have been convicted of such a terrorist offence;

—improved extradition procedures within due process of domestic law for bringing to trial those who have perpetrated such acts of terrorism;

—stricter immigration and visa requirements and procedures in respect of nationals of states which sponsor or support terrorism;

—the closest possible bilateral and multilateral cooperation between police and security organizations and other relevant authorities in the fight against terrorism.

Each of us is committed to work in the appropriate international bodies to which we belong to ensure that similar measures are accepted and acted upon by as many other governments as possible.

5. We will maintain close cooperation in furthering the objectives of this statement and in considering further measures. We agree to make the 1978 Bonn Declaration more effective in dealing with all forms of terrorism affecting civil aviation. We are ready to promote bilaterally and multilaterally further action to be taken in international organizations or fora competent to fight against international terrorism in any of its forms.

2. Other Conferences

a. Summit of Peacemakers, Sharm El Sheikh, Egypt, March 13, 1996

(1) Co-Chairmen's Statement [1]

The Summit of Peacemakers has just concluded. This meeting took place at a time when the peace process confronts serious threats. The Summit had three fundamental objectives: to enhance the peace process, to promote security and to combat terror. Accordingly, the participants here today:

—Express their full support for the Middle East peace process and their determination that this process continue in order to accomplish a just, lasting and comprehensive peace in the region;

—Affirm their determination to promote security and stability and to prevent the enemies of peace from achieving their ultimate objective of destroying the real opportunity for peace in the Middle East.

—Reemphasize their strong condemnation of all acts of terror in all its abhorrent forms, whatever its motivation, and whoever its perpetrator, including recent terrorist attacks in Israel, consider them alien to the moral and spiritual values shared by all the peoples of the region and reaffirm their intention to stand staunchly against all such acts, and to urge all governments to join them in this condemnation and opposition.

To that end, we decided:

a) To support the Israeli-Palestinian agreements, the continuation of the negotiating process and to politically and economically reinforce it to enhance the security situation for both, with special attention to the current and pressing economic needs of the Palestinians.

b) To support continuation of the negotiating process in order to achieve a comprehensive settlement.

c) To work together to promote security and stability in the region by developing effective and practical means of cooperation and further assistance.

d) To promote coordination of efforts to stop acts of terror on bilateral, regional and international levels; ensuring instigators of such acts are brought to justice; supporting efforts by all parties to prevent their territories from being used for terrorist purposes; and preventing terrorist organizations from engaging in recruitment, supplying arms, or fund raising.

e) To exert maximum efforts to identify and determine the sources of financing for these groups and to cooperate in cutting

[1] Source: U.S. Department of State.

them off, and by providing training, equipment and other forms of support to those taking steps against groups using violence and terror to undermine peace, security or stability.

f) To form a working group, open to all Summit participants, to prepare recommendations on how best to implement the decisions contained in this statement, through ongoing work and to report to the participants within thirty days.

President Bill Clinton	President Hosni Mubarak
United States of America	Arab Republic of Egypt
Co-Chairman	Co-Chairman

(2) Communiqué [1]

The Co-Chairmen's Statement of the Sharm el-Sheikh Summit of the Peacemakers called upon all participants to form a working group to prepare recommendations on how best to implement the decisions taken at the Summit. Regional and security experts representing all 29 Summit participants met in Washington, D.C. on March 28 and 29 to prepare those recommendations. In plenary sessions and sub-groups focused on counterterrorism cooperation, the experts considered specific and concrete steps they will take to respond to the call of the Sharm el-Sheikh parties. On April 22, the recommendations were delivered to the Sharm el-Sheikh participants at a ministerial-level meeting hosted by the European Union in Luxembourg. In Luxembourg, the Sharm el-Sheikh parties unanimously re-confirmed their strong support for the peace process and against those who would disrupt this process through violence and terrorism. The parties resolved to back this stance with a new level of commitment, cooperation, and effectiveness, as demonstrated by the following plan of action.

At Sharm el-Sheikh, the parties committed themselves to "support the Israeli-Palestinian agreements, the continuation of the negotiation process and to reinforce it politically and economically to enhance the security for both, with special attention to the current and pressing economic needs of the Palestinians." To this end, the Sharm el-Sheikh parties:

- welcomed steps to address the Palestinians' difficult economic situation.
- supported the U.S. emergency economic plan steps to provide for Palestinian economic needs.
- acknowledged the key role played by the April 12 special meeting in Brussels of the Ad Hoc Liaison Committee.
- affirmed their commitment to help the Palestinians, Israel and the donor community explore the economic situation in the West Bank and Gaza, measures to facilitate the movement of Palestinian imports and exports, and the emergency employment program.
- acknowledged the advances made by the Palestinians over the period since the DOP was signed in September 1993, in particular the Palestinian elections.
- recognized the contribution of the Sharm el-Sheikh process to supporting the peace process and restoring productive peace negotiations.
- committed themselves to help restore confidence and establish the basis for practical political re-engagement and continuing respect for the Israeli-Palestinian agreements and their implementation.

[1] Source: U.S. Department of State.

At Sharm el-Sheikh, the parties agreed to "support continuation of the negotiating process in order to achieve a comprehensive settlement." To this end, the Sharm el-Sheikh parties:

- reaffirmed support for the negotiating process to secure a comprehensive peace.
- recognized the importance both of continuing the Israeli-Palestinian negotiating process and of encouraging Syrian-Israeli and Lebanese-Israeli negotiations.
- recognized the desirability of bringing Syria and Lebanon into the Sharm el-Sheikh and multilateral processes.

At Sharm el-Sheikh, the parties agreed to "work together to promote security and stability in the region by developing effective and practical means of cooperation and further assistance." To this end, the Sharm el-Sheikh parties:

- agreed that terrorism is a crime which cannot be condoned or excused for political reasons and that this policy is a strong deterrent to terrorism.
- agreed to increase exchanges of information and analysis on security and terrorism issues, including terrorist groups, threats, and movement of terrorists, arms and explosives.
- committed to intensify consultations on counterterrorism, through diplomatic, law enforcement, and intelligence channels, and to develop procedures for mutual legal assistance to facilitate the collection of evidence.
- agreed on the need to increase assistance to the Palestinian Authority to strengthen its counterterrorism and law enforcement capabilities.
- agreed that concerned Sharm el-Sheikh parties would consult on assistance to the Palestinian Authority, to coordinate contributions, and to ensure that priority needs are met.
- agreed that all possible means should be used to enhance the counterterrorism capabilities of other Sharm el-Sheikh parties, in such areas as investigation, forensics, crisis management, analysis, and information handling.
- agreed that Sharm el-Sheikh parties interested in improving counterterrorism capabilities hold experts consultations on training, assistance, resources and capabilities, and to share information and broaden contacts in this area.
- agreed on the importance of simulated exercises to practice counterterrorism and crisis management.

At Sharm el-Sheikh, the parties agreed "to promote coordination of efforts to stop acts of terror in bilateral, regional and international levels; ensuring instigators of such acts are brought to justice; supporting efforts by all parties to prevent their territories from being used for terrorist purposes; and preventing terrorist organizations from engaging in recruitment, supplying arms, or fundraising." To this end, the Sharm el-Sheikh parties:

- agreed that all states should adhere to and implement international conventions relating to terrorism, incorporate into domestic laws the crimes defined in those conventions, and establish the competence of the courts to judge such crimes.

- agreed to intensify prosecution, extradition, or rendition of terrorists in order to deny them safe haven, and to expand negotiation of bilateral extradition agreements.
- agreed that concerned Sharm el-Sheikh parties and other interested states should study the need for a new international legal instrument to prevent terrorists from abusing the rights of asylum of refugee status.
- agreed that concerned parties would hold consultations to share information, methodologies, and technical data on the control and security of documents.
- emphasized the importance of programs to educate personnel involved in transportation and the control of borders.

At Sharm el-Sheikh, the parties agreed to "exert maximum efforts to identify and determine the sources of financing for those groups and to cooperate in cutting them off, and by providing training, equipment and other forms of support to those taking steps against groups using violence and terror to undermine peace, security or stability." To this end, the Sharm el-Sheikh parties:

- agreed that greater efforts are needed to stop terrorist fundraising, to educate their publics, and to prevent the misuse of charitable fundraising.
- agreed to continue discussions on this important issue, bilaterally and multilaterally.

We support continued holding of international meetings whether in the multilaterals or the economic summit process, or among parties to the Sharm el-Sheikh process, which all provide valuable reinforcement for the peace process and for the community of states and organizations represented here to demonstrate our ongoing support for the core parties and the bilateral negotiation process.

b. Baguio Communique, Baguio City, Philippines, February 21, 1996[1]

BAGUIO COMMUNIQUE

Representatives of nineteen States from different parts of the world came together on 18–21 February 1996 at Baguio City, Philippines, to enhance international cooperation against all forms of terrorism.

After intensive discussions, the delegates expressed their collective commitment to combat terrorism taking into consideration the following fundamental principles:

—Terrorist acts are crimes and all legally available means should be used to counter them;
—Combating terrorism requires cooperative efforts;
—There must be no sanctuary for terrorists;
—There must be no compromise in the fight against terrorism;
—Counter-terrorism measures must be in accordance with the relevant provisions of international law and international standards of human rights, and
—Countries that have not yet acceded to treaties and conventions on terrorism are urged to do so as a matter of highest priority.

The delegates shared the view that there is an urgent need to promote the following:

—the strengthening of multilateral and bilateral cooperation on coordination of policy and action against terrorism;
—the enhancement of international cooperation and coordination in law enforcement, intelligence sharing, and in preventing the illicit traffic in and use of explosives, weapons, and nuclear, chemical and biological materials;
—the enhancement of mechanisms for effective immigration control and protection of the integrity of travel documents;
—development of international means of intelligence exchange to facilitate the flow of critical information, in particular, on terrorists and terrorist organizations, their movement and funding, and also information needed to protect life, property and security of transportation;
—cooperation in the fields of training and exchange of information on technologies needed to combat terrorism; and
—effective policies and laws to ensure prompt apprehension, investigation, bringing to justice or extradition of terrorists by means of bilateral, regional, or multilateral agreements or other arrangements by concerned States.

[1] Source: U.S. Department of State.

The meeting was characterized by the spirit of utmost cordiality and friendship among the delegates and close international co-operation.

22 February 1996
Baguio City
Philippines

3. Hemispheric Documents

a. Second Inter-American Specialized Conference on Terrorism, Mar de Plata, Argentina, November 23-24, 1998 [1]

(1) Commitment of Mar de Plata

The ministers and heads of delegation of the member states of the Organization of American States (OAS), meeting in Mar del Plata, Argentina, on November 23 and 24, 1998, for the Second Inter-American Specialized Conference on Terrorism, to evaluate the progress made and define future courses of action to prevent, combat, and eliminate terrorism, pursuant to the mandate contained in the Plan of Action of the Second Summit of the Americas, held in Santiago, Chile, in April 1998,

CONSIDERING the intention of the heads of state and government to combat, using all legal means, terrorist acts anywhere in the Hemisphere with unity and vigor, as affirmed in the Declaration of Principles of the First Summit of the Americas, held in Miami, in December 1994, and their decision, reiterated at the Second Summit of the Americas, in Santiago, Chile, to lend new impetus to the struggle against these criminal activities;

BEARING IN MIND the results of the First Inter-American Specialized Conference on Terrorism, held in Lima, Peru, from April 23 to 26, 1996, which adopted the Declaration and the Plan of Action of Lima to Prevent, Combat, and Eliminate Terrorism;

BEARING IN MIND the recommendations of the Meeting of Government Experts to Examine Ways to Improve the Exchange of Information and Other Measures for Cooperation among Member States to Prevent, Combat, and Eliminate Terrorism, held in Washington, D.C., on May 5 and 6, 1997, pursuant to the General Assembly mandate contained in resolution AG/RES. 1399 (XXVI–O/96);

RECALLING resolution AG/RES. 1492 (XXVII–O/97), through which the General Assembly instructed the Permanent Council to study the recommendations and proposals made at the above-mentioned Meeting of Government Experts and, particularly, the proposals on the exchange of information aimed at improving cooperation among the member states in order to prevent, combat, and eliminate terrorism;

BEARING IN MIND, also, that resolution AG/RES. 1553 (XXVIII–O/98) instructed the Permanent Council to continue to consider appropriate ways and mechanisms for follow-up and implementation, as appropriate, of the measures recommended in the Plan of Action on Hemispheric Cooperation to Prevent, Combat, and Eliminate Terrorism, adopted at the Inter-American Special-

[1] Source: http://www.oas.org/en/prog/juridico/english/Docu1.htm

ized Conference on Terrorism, held in Lima, Peru, in April 1996, including a study of the necessity and advisability of a new inter-American convention on the subject, in the light of the evaluation of existing international instruments;

TAKING INTO ACCOUNT the provisions of resolution 51/210, "Measures to Eliminate International Terrorism," which has as an annex the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, adopted by the United Nations General Assembly on December 17, 1996; and the International Convention for the Suppression of Terrorist Bombings, open for signature as of January 12, 1998, at United Nations headquarters;

TAKING INTO ACCOUNT the progress made in the Hemisphere since the first Inter-American Specialized Conference on Terrorism in obtaining a concerted and effective response to the terrorist threat, as well as the need to strengthen existing regional cooperation to achieve the objectives of the Plan of Action of Lima;

CONVINCED of the urgency of adopting specific measures to obtain a concerted and effective response to the terrorist threat, within the framework of respect for state sovereignty and the principle of nonintervention, in order to ensure peaceful and civilized coexistence in the Hemisphere, the rule of law, and the stability and consolidation of representative democracy itself as the form of government of the member states;

DETERMINED to promote the establishment of an effective institutional framework for concerted action and development of hemispheric cooperation to prevent, combat, and eliminate terrorism;

PURSUANT to the principles and purposes embodied in the Charter of the Organization of American States,

DECIDE TO ADOPT THE FOLLOWING COMMITMENT:

(i) To reiterate their most emphatic condemnation and repudiation of all terrorist acts, which they recognize as serious common crimes that erode peaceful and civilized coexistence, affect the rule of law and the exercise of democracy, and endanger the stability of democratically elected constitutional governments and the socioeconomic development of our countries.

(ii) To strengthen cooperation among the member states to combat terrorism, with full respect for the rule of international law and for human rights and fundamental freedoms, respect for the sovereignty of states and the principle of nonintervention, and strict compliance with the rights and duties of states embodied in the Charter of the Organization of American States.

(iii) To emphasize the effectiveness and significance of the general objectives and actions set forth in the Declaration and the Plan of Action of Lima, and to reiterate their firm intention to achieve them.

(iv) To improve the exchange of information and other measures for cooperation among member states to prevent, combat, and eliminate terrorism, taking into account and welcoming the results of the Meeting of Government Experts.

(v) To note with satisfaction the progress made in the area of bilateral, subregional, and multilateral cooperation, and, taking into consideration especially the subregional coordination efforts to pre-

vent acts of terrorism reflected in the Framework Treaty on Democratic Security in Central America, and the agreement between Argentina, Brazil, and Paraguay, known as the Tripartite Agreement, to express, also, their determination to increase and strengthen initiatives such as those mentioned above.

(vi) To note with satisfaction the entry into force on July 1, 1998, of the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials, and to urge states that have not yet done so to sign or ratify this instrument, as appropriate.

(vii) To recommend to the General Assembly at its twenty-ninth regular session that it establish an appropriate institutional framework, in keeping with the Charter of the Organization of American States and bearing in mind respect for state sovereignty and the principle of nonintervention, that shall be called Inter-American Committee on Terrorism (CICTE). It shall be formed by the competent national authorities in the member states of the Organization for the development of cooperation to prevent, combat, and eliminate terrorist acts and activities, and it shall hold at least one session a year.

The Inter-American Committee on Terrorism will be guided by international conventions on the subject, the principles and objectives of the Declaration and Plan of Action of Lima, the recommendations of the May 1997 Meeting of Government Experts to Examine Ways to Improve the Exchange of Information and Other Measures for Cooperation among the Member States in order to Prevent, Combat, and Eliminate Terrorism, the provisions of this Commitment to inter-American action and those that may be adopted in the future to prevent, combat, and eliminate terrorism.

(viii) To propose that, at the time of establishing the terms of reference and functions of the Inter-American Committee against Terrorism, consideration be given to the guidelines contained in Appendix I to this Commitment, aimed at establishing effective mechanisms for cooperation among the member states to prevent, combat, and eliminate terrorism.

(ix) To request the OAS General Assembly to instruct the General Secretariat to designate, within its sphere of competence, an instance to provide technical and administrative support to the Inter-American Committee against Terrorism, in keeping with the resources allotted in the program-budget of the Organization and other resources, taking into account the process of modernization and strengthening of the OAS.

(x) To transmit to CICTE, for implementation, proposals on the ways and means such as the "Directory of Competences for the Prevention, Combating, and Elimination of Terrorism," and the "Inter-American Database on Terrorism," proposed at the Meeting of Government Experts held at OAS headquarters in May 1997, as well as the establishment of a framework for technical cooperation that takes into account the guidelines contained in Appendices I, II, and III to this Commitment.

(xi) To recommend the adoption of specific measures to respond in a concerted and effective manner to the terrorist threat and to agree, for these purposes, on guidelines for coordinated action

among the member states, such as those envisaged in Appendices I, II, and III to this Commitment.

(xii) To examine the possibility of designating, in accordance with the domestic legislation of each state, National Liaison Agencies for purposes of facilitating cooperation among the organs of the member states responsible for preventing, combating, and eliminating terrorism.

(xiii) To encourage member states to continue to develop bilateral, subregional, or multilateral cooperation mechanisms, which does not preclude the competent organs of the OAS from considering the proposals contained in this Commitment.

(xiv) To urge the member states that have not yet done so to promptly sign, ratify, or accede to, in conformity with their respective domestic legislation, the international conventions on terrorism referred to in United Nations resolution 51/210, namely the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed in Tokyo on September 14, 1963; the Convention for the Suppression of Unlawful Seizure of Aircraft, signed in The Hague on December 16, 1970; the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded in Montreal on September 23, 1971; the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted in New York on December 14, 1973; the International Convention against the Taking of Hostages, adopted in New York on December 17, 1979; the Convention on the Physical Protection of Nuclear Material, signed in Vienna on March 3, 1980; the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed in Montreal on February 24, 1988; the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done in Rome on March 10, 1988; the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done in Rome on March 10, 1988; and the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done in Montreal on March 1, 1991, and the International Convention for the Suppression of Terrorist Bombings, available for signature at United Nations headquarters as of January 12, 1998.

(xv) To make the greatest possible effort to make available to the Organization of American States sufficient funds to develop the joint programs and activities adopted by CICTE.

(xvi) To seek the supplementary financial support required to conduct counterterrorism activities successfully within the framework of CICTE from external sources, including the OAS permanent observer states and other states and financial institutions, particularly the Inter-American Development Bank (IDB).

(xvii) To recommend to the General Assembly that, at its twenty-ninth regular session, it consider the adoption of appropriate financing mechanisms, in particular the establishment of a specific fund for implementation of the programs and activities approved within the framework of CICTE.

(xviii) To recommend to the General Assembly that it entrust the Permanent Council with continuing to study the need and advisability of a new inter-American convention on terrorism, in light of existing international instruments.

(xix) To recommend to the General Assembly that it instruct the OAS General Secretariat to:

a. Collaborate with CICTE in preparing the draft Statute and Rules of Procedure. The Statute should be approved by the General Assembly and the Rules of Procedure by CICTE itself.

b. Collaborate in the preparation of the reports that CICTE shall have to present to the General Assembly through the Permanent Council.

(xx) To recommend to the Permanent Council that, when presenting its observation and recommendations to the General Assembly regarding the CICTE report, in accordance with Article 91.f of the Charter, it include references to the need to coordinate the activities of that Committee with the work of the other bodies in the Organization.

(xxi) To recommend to the Inter-American Juridical Committee that it study the strengthening of juridical and judicial cooperation, including extradition, as a form of combating terrorism, and that it collaborate with CICTE in devising norms on this subject.

(2) The Inter-American Committee on Terrorism (CICTE)[1]

NATURE, POWERS, AND FUNCTIONS OF CICTE

1. The Inter-American Committee on Terrorism (CICTE) shall be an entity established by the General Assembly of the Organization of American States (OAS) in conformity with Article 53 of the Charter of the Organization, which shall enjoy technical autonomy. It will be composed of the competent national authorities of all the member states and be governed in the exercise of its functions by the provisions of Article 91.f of the Charter.

2. In the exercise of its functions, CICTE shall promote the development of inter-American cooperation on the basis of international conventions on this matter and the Declaration of Lima to Prevent, Combat, and Eliminate Terrorism. It shall be empowered to encourage, develop, coordinate, and evaluate implementation of the Plan of Action of Lima, the recommendations of the Meeting of Government Experts to Examine Ways to Improve the Exchange of Information and Other Measures for Cooperation among Member States to Prevent, Combat, and Eliminate Terrorism, as well as the recommendations contained in this Commitment.

3. CICTE will provide assistance to member states requesting it , in order to prevent, combat, and eliminate terrorism, while promoting, in accordance with the domestic laws of the member states, the exchange of information and experiences with the activities of persons, groups, organizations, and movements linked to terrorist acts as well as with the methods, sources of finance and entities directly or indirectly protecting or supporting them, and their possible links to other crimes.

4. In order to ensure an adequate exchange of information on the issue of illicit trafficking in arms, munitions, explosives, materials, or technology capable of being used to perpetrate terrorist acts or activities, CICTE will coordinate with the Consultative Committee established by the 1997 Inter-American Convention against the Illicit Production of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials.

5. CICTE will hold at least one annual session. During its first session, CICTE will draw up its work schedule designed to implement the following guidelines:

a. To create an inter-American network for gathering and transmitting data via the competent national authorities, designed to exchange the information and experiences referred to in paragraph 3, including the creation of an inter-American database on terrorism issues that will be at the disposal of member states.

b. To compile the legal and regulatory norms on preventing, combating, and eliminating terrorism in force in member states.

[1] Source: http://www.oas.org/en/prog/juridico/english/Docu2.htm

c. To compile the bilateral, subregional, regional, or multilateral treaties and agreements signed by member states to prevent, combat, and eliminate terrorism.

d. To study the appropriate mechanisms to ensure more effective application of international legal norms on the subject, especially the norms and provisions contemplated in the conventions against terrorism in force in states parties to those conventions mentioned in paragraph xiv of this Commitment.

e. To formulate proposals designed to provide assistance to states requesting it in drafting national antiterrorist laws.

f. To devise mechanisms for cooperation in detecting forged identity documents.

g. To devise mechanisms for cooperation among competent migration authorities.

h. To design technical cooperation programs and activities for training staff assigned to tasks related to preventing, combating, and eliminating terrorism in each of the member states that request such assistance.

6. The above-mentioned guidelines do not preclude the possibility of CICTE carrying out other activities should the General Assembly so determine.

7. With the acquiescence of the competent authorities, CICTE may establish mechanisms for coordinating with other competent international entities, such as INTERPOL.

(3) Guidelines for Inter-American Cooperation Regarding Terrorist Acts and Activities [1]

PRINCIPLES

1. Inter-American cooperation in dealing with terrorist acts and activities will be guided by full respect for domestic laws and regulations and for international law and will be carried out exclusively at the express request of the affected state.

2. Inter-American cooperation shall respect the sovereignty and territorial integrity of states, as well as the principle of non-intervention in domestic affairs under the jurisdiction of the state, in accordance with the Charter of the Organization of American States.

3. Pursuant to inter-American norms on the subject, each state has the exclusive right to determine the nature of occurrences that could qualify as terrorist acts or activities. The states shall cooperate closely as regards extradition in accordance with their domestic laws and the extradition treaties in force, without prejudice to the right of states to grant asylum under the appropriate circumstances.

4. Each state has the fundamental and principal responsibility of preventing, combating, and eliminating terrorism, a goal that inter-American cooperation pursues according to the following guidelines.

PURPOSES

5. The member states will seek to cooperate in the fight against all forms of terrorism, to the fullest extent permitted by their national laws and regulations, in accordance with their legal obligations arising from existing international conventions on terrorism, and as set out in these guidelines.

6. The member states will seek to cooperate, to the extent that they find mutually beneficial, in the development and implementation of joint programs and activities to facilitate the full realization of the intent of these guidelines.

7. The member states will seek to cooperate, by mutual consent, in the event of a terrorist act. Cooperation under these guidelines may include assistance with: weapons detection and deactivation, hostage negotiations, intelligence gathering, communications systems, search and rescue for victims, and criminal investigations.

PROCEDURES

8. Irrespective of bilateral mechanisms, member states will seek, insofar as possible within the context of domestic legislation,

[1] Source: http://www.oas.org/en/prog/juridico/english/Docu3.htm

through CICTE, to exchange information regarding the laws, regulations, plans, and administrative procedures concerned with preventing, combating, and eliminating terrorist acts and activities.

9. Member states will seek to cooperate in dealing with terrorist acts and activities. To that end, member states may provide assistance, when such assistance is expressly requested, to another state in order to prevent, combat, and eliminate terrorism. That cooperation may include technical, scientific, and logistical assistance, depending on the agreement reached by the states involved. Member states will seek to prepare operational plans and crisis management procedures within their respective governments in response to terrorist activities.

10. Member states will seek to keep other states up to date regarding occurrences that, in their view, could be classified as terrorist acts and activities.

NOTIFICATION

11. Whenever a member state becomes aware of occurrences that it considers could be classified as terrorist acts or activities with a transnational impact, it will seek to notify, as soon as possible, the state or states that could be affected.

12. The member states will seek to notify each other of any request or acceptance of assistance from a third party regarding a terrorist activity or act that has affected or could directly affect another member state.

13. The member states will seek to inform CICTE or any other competent organ in the OAS, whenever possible, of the events referred to in paragraph 4.

RESPONSE

14. In the event of occurrences that could be classified as terrorist acts and activities with a transnational impact, member states will seek in a manner compatible with their domestic laws and regulations and applicable international conventions:

a. To authorize and facilitate the presence of liaison representatives at locations agreed to by the member states, consistent with domestic crisis management procedures, who will be responsible for maintaining channels of communication between the member states and for facilitating accurate exchanges of information on operational and policy decisions;

b. To the extent appropriate, to share information concerning the materials, devices, and/or weapons used in that terrorist act or activity; likely perpetrators; their possible sources of support; and any other relevant information.

c. To afford one another the greatest measure of assistance in judicial cooperation, including assistance in obtaining evidence at their disposal necessary for such investigations or proceedings.

CONFIDENTIALITY

15. The member states will seek to safeguard the confidentiality of information that is not a matter of public record, exchanged pursuant to these guidelines, and to prevent the disclosure of such in-

formation to third parties in accordance with their national laws and regulations.

16. Information and materials exchanged under these guidelines may be disclosed to third states only with the explicit consent of the member state that provided it.

(4) Measures to Eliminate Terrorist Fundraising[1]

CONTEXTUAL FRAMEWORK

1. Countermeasures against terrorism must include effective actions to impede the flow of funds that terrorist organizations depend on to secure and maintain weapons, equipment, and other materials, and to pay for training, travel, false documentation, recruiting, salaries, communications, and/or any other activity intended to finance acts pursuing terrorist goals. A significant portion of the fiscal needs of terrorist organizations are met from the proceeds of traditional criminal activity and from the solicitation of ostensibly charitable, humanitarian, and philanthropic contributions, some of which are diverted to fund terrorist operations.

2. The effectiveness of measures to counter transnational terrorist fundraising will be enhanced through cooperative action among OAS member states.

3. OAS member states recognize that states that seek to disrupt financial flows to terrorist organizations make it possible to move ahead in cooperation with other states to prevent, combat, and eliminate terrorism.

Execution of measures against terrorist fundraising

4. Through CICTE or other competent entities, OAS member states agree to consider adopting the following measures to counter terrorist fundraising, evaluating, where necessary, the desirability of strengthening national laws:

a. Promote the necessary measures to discern and then block the capital flows financing terrorism, within the framework of the laws already in force in each state, or by devising norms that are compatible with them and make it possible to achieve objectives.

b. Ensure that law enforcement officials are trained in the prevention and detection of terrorist fundraising and, in the performance of their duties, encourage them to cooperate in international training efforts designed to address terrorist fundraising;

c. Ensure that records of financial transactions are available to law enforcement officials and that each member state has the legal and logistical means to enable their law enforcement officials to share with their counterparts in other member states documentary, financial and other information useful in criminal investigations and/or civil and administrative matters related to terrorist fundraising;

d. Cooperate, in a manner consistent with national laws and states' international commitments, with other member states in international investigations and prosecutions of terrorist fundraising violations, including assisting with locating and inter-

[1] Source: http://www.oas.org/en/prog/juridico/english/Docu4.htm

viewing witnesses and with obtaining financial and other relevant documents;

e. Apply norms that create the bases and effective mechanisms to reinforce agreements and treaties on extradition for criminal offenses involving terrorist fundraising;

f. Apply norms that require financial institutions to maintain records of financial transactions for at least five years;

g. Apply norms that require financial institutions to obtain, and maintain records of, information that allows them to identify, verify, and know their customers;

h. Apply norms that ensure that financial institutions bring financial activities presumed to be intended to fund terrorist acts or activities to the timely attention of the competent authorities;

i. Apply norms that protect against the misuse of currency in transactions involving financial institutions and in cross-border transportation;

j. Apply norms that compel financial institutions to comply with the requirements to protect a member state's financial system from abuse by terrorist fundraisers.

b. Hemispheric Cooperation to Prevent, Combat, and Eliminate Terrorism [1]

AG/RES. 1399 (XXVI-O/96)

(Resolution adopted at the eighth plenary session, held on June 7, 1996)

THE GENERAL ASSEMBLY,

HAVING SEEN resolution AG/RES. 1350 (XXV-O/95), which convened an Inter-American Specialized Conference on Terrorism;

BEARING IN MIND that the Specialized Conference was held in Lima from April 23 to 26, 1996, and that it adopted the "Declaration of Lima to Prevent, Combat, and Eliminate Terrorism" and the "Plan of Action on Hemispheric Cooperation to Prevent, Combat, and Eliminate Terrorism";

TAKING INTO ACCOUNT the Secretary General's proposals on new forms of inter-American cooperation to confront terrorism with all due effectiveness, which have been included in the Declaration of Montrouis: A New Vision of the OAS and presented in the document "The Law in a New Inter-American Order," which is under consideration by the governments; and

CONSIDERING:

That the Plan of Action on Hemispheric Cooperation to Prevent, Combat, and Eliminate Terrorism recommends, among other measures, that the Organization of American States (OAS) should follow up on the progress made in implementing that Plan of Action, and that the OAS General Assembly should consider convening a meeting of experts to examine ways to improve the exchange of information among the member states, in order to prevent, combat, and eliminate terrorism;

That, in addition, resolution CEITE/RES. 2/96 recommends that the General Assembly of the Organization consider appropriate ways and means to follow up on the measures agreed upon in the Declaration and the Plan of Action adopted at the Specialized Conference; and

The Final Report of the Inter-American Specialized Conference on Terrorism (CEITE/doc.28/96),

RESOLVES:

1. To reiterate its strongest condemnation of all forms of terrorism by whatever agent or means and to repudiate the grave consequences of such acts which, as stated at the Summit of the Americas, "constitute a systematic and deliberate violation of the rights of individuals."

2. To express its satisfaction with the holding of the Inter-American Specialized Conference on Terrorism and the adoption of the

[1] Source: http://www.oas.org/EN/PINFO/OAS/AG97/R/agr1399e.htm

Declaration of Lima to Prevent, Combat, and Eliminate Terrorism and the Plan of Action on Hemispheric Cooperation to Prevent, Combat, and Eliminate Terrorism.

3. To instruct the Permanent Council to consider appropriate ways and means to follow up on the measures recommended in the Plan of Action and submit a progress report on its work to the General Assembly at its next regular session.

4. To request the Permanent Council to consider convening a meeting of government experts to examine ways to improve the exchange of information and other measures for cooperation among the member states to prevent, combat, and eliminate terrorism.

5. To draw the attention of all the organs of the Organization of American States and, in particular, the Inter-American Commission on Human Rights to the importance of the Declaration of Lima and the Plan of Action.

6. To instruct the Inter-American Juridical Committee to continue its study of the topic "Inter-American Cooperation to Confront Terrorism," in light of the documents approved at the Specialized Conference.

c. First Inter-American Specialized Conference on Terrorism, Lima Peru, April 23–26, 1996

(1) Declaration of Lima to Prevent, Combat, and Eliminate Terrorism[1]

(Revised by the Style Committee)

The ministers and the heads of delegation of the member states of the Organization of American States (OAS), meeting in Lima, Peru, from April 23 to 26, 1996, for the Inter-American Specialized Conference on Terrorism,

TAKING AS A BASIS the principles and purposes enshrined in the Charter of the Organization of American States;

RECALLING that the Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion That Are of International Significance, signed in Washington, D.C., in 1971; resolutions AG/RES. 4 (I-E/70), AG/RES. 775 (XV-O/85), AG/RES. 1112 (XXI-O/91), and AG/RES. 1213 (XXIII-O/93); and the Declarations of Asuncion (1990) and Belom do Paris (1994) attest to an evolution in the treatment by the Organization of American States of the serious and disturbing phenomenon of terrorism;

CONSIDERING that, in the Declaration of Principles of the Summit of the Americas (Miami, December 1994), the heads of state and government said: "We condemn terrorism in all its forms, and we will, using all legal means, combat terrorist acts anywhere in the Americas with unity and vigor," and that, in the Plan of Action under the section entitled "Eliminating the Threat of National and International Terrorism" (item 7), they affirmed that this scourge constitutes "a systematic and deliberate violation of the rights of individuals and an assault on democracy itself" and decided that "a special conference of the OAS on the prevention of terrorism" should be held;

BEARING IN MIND that the ministers of foreign affairs of the Hemisphere noted in the Declaration of Montrouis: A New Vision of the OAS, adopted by the OAS General Assembly at its twenty-fifth regular session (June 1995), that "terrorism is a serious criminal phenomenon of deep concern to all member states, and that it has devastating effects on civilized coexistence, democratic institutions, and the lives, safety, and property of human beings," and that at that session the General Assembly convened an Inter-American Specialized Conference on Terrorism [AG/RES. 1350 (XXV-O/95)];

RECALLING the Declaration of Quito, signed at the IX Meeting of the Rio Group (September 1995), in which the heads of state and

[1] Source: http://www.oas.org/EN/PINFO/CONVEN/li00065e.htm

government said: "We reiterate our condemnation of terrorism in all its forms as well as our determination to make vigorous, united efforts to combat this scourge by all available legal means, since it violates basic human rights";

RECALLING also the Framework Treaty on Democratic Security in Central America (December 1995), signed by Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama, in which the parties undertake to prevent and combat, without exception, all types of criminal activity with a regional or international impact, such as terrorism;

TAKING NOTE of the Final Declaration of the States Participating in the Meeting of Consultation on Cooperation to Prevent and Eliminate International Terrorism, adopted in Buenos Aires (August 1995) by Argentina, Brazil, Canada, Chile, Paraguay, the United States, and Uruguay, which, inter alia, reiterated that "the cooperation that exists between our governments must be enhanced," in the context of which an agreement was signed in March 1996 among Argentina, Brazil, and Paraguay to implement effective measures in response to the criminal phenomenon of terrorism;

TAKING INTO ACCOUNT the recent work of the United Nations and noting the documents issued by the Ottawa P–8 Ministerial Conference on Terrorism (December 1995) and the International Conference on Counterterrorism, held in Baguio (February 1996);

MINDFUL that terrorist acts are an assault on the rule of law and democratic institutions and are often intended to destabilize democratically elected constitutional governments;

CONCERNED by the detrimental effects terrorism can have on efforts to attain the common objective of regional integration and to promote economic and social development in the countries of the Hemisphere;

RECOGNIZING that terrorist acts, by whomever and wherever perpetrated and whatever their forms, methods, or motives, are serious common crimes or felonies;

DEEPLY ALARMED at the persistence of this scourge and at its occasional links to the illicit production and use of drugs and trafficking therein, to trafficking in chemical precursors, and to money laundering, as well as its possible ties to other criminal activities;

RECOGNIZING the importance to the fight against terrorism of eliminating the illicit production and use of arms, munitions, and explosive materials and trafficking therein; and

CONVINCED that existing regional cooperation must be intensified and that concerted and effective measures must be adopted urgently in response to the threat of terrorism,

DECLARE:

1. That observance of international law, full respect for human rights and fundamental freedoms, respect for the sovereignty of states, the principle of nonintervention, and strict observance of the rights and duties of states embodied in the Charter of the OAS constitute the global framework for preventing, combating, and eliminating terrorism.

2. That terrorist violence erodes peaceful and civilized coexistence, affects the rule of law and the exercise of democracy, and en-

dangers the stability of national institutions and the socioeconomic development of our countries.

3. That terrorism, as a serious form of organized and systematic violence, which is intended to generate chaos and fear among the population, results in death and destruction and is a reprehensible criminal activity.

4. Their most emphatic condemnation of all terrorist acts, wherever and by whomever perpetrated, and all methods used to commit them, regardless of the motivation invoked to justify the acts.

5. That terrorist acts are serious common crimes or felonies and, as such, should be tried by national courts in accordance with domestic law and the guarantees provided by the rule of law.

6. Their resolve to cooperate fully on matters of extradition, in conformity with their domestic law and treaties in force on the subject, without prejudice to the right of states to grant asylum when appropriate.

7. That terrorism, as noted by the heads of state and government at the Summit of the Americas, is a violation of the fundamental rights and freedoms of individuals and an assault on democracy itself.

8. Their decision to study, on the basis of an evaluation of existing international instruments, the need for and advisability of concluding a new inter-American convention on terrorism.

9. That it is important for OAS member states to ratify or accede to international instruments on terrorism as soon as possible and, when necessary, to implement them through their domestic laws.

10. Their decision to increase cooperation among member states in combating terrorist acts, while fully observing the rule of law and international norms, especially with regard to human rights.

11. That it is essential to adopt all bilateral and regional cooperation measures necessary to prevent, combat, and eliminate, by all legal means, terrorist acts in the Hemisphere, with full respect for the jurisdiction of member states and for international treaties and conventions.

(2) Plan of Action on Hemispheric Cooperation to Prevent, Combat, and Eliminate Terrorism [1]

(Revised by the Style Committee)

The ministers and the heads of delegation of the member states of the Organization of American States (OAS), meeting in Lima, Peru, at the Inter-American Specialized Conference on Terrorism, firmly resolved to achieve the overall objectives set forth in the Declaration of Lima to Prevent, Combat, and Eliminate Terrorism, agree to the following Plan of Action:

The governments

1. Shall endeavor to establish terrorist acts as serious common crimes or felonies under their domestic laws, if they have not yet done so.

2. Shall promote the prompt signing and ratification of and/or accession to international conventions related to terrorism, in accordance with their domestic laws.

3. Shall periodically share updated information on domestic laws and regulations adopted in the area of terrorism and on the signing and ratification of and/or accession to relevant international conventions.

4. Shall provide pertinent legal information and other background data on terrorism to the General Secretariat, which shall keep them organized and up-to-date.

5. Shall promote measures for mutual legal assistance to prevent, combat, and eliminate terrorism.

6. In keeping with relevant domestic and international laws, shall extend their utmost cooperation with respect to criminal proceedings initiated against alleged terrorists, by providing to the state that has exercised jurisdiction any evidence in their possession. If appropriate, they shall facilitate direct communication among the jurisdictional bodies to expedite the presentation of evidence of the crime.

7. As an expression of their firm political will to employ all legal means to prevent, combat, and eliminate terrorism, shall promote strict and timely compliance with applicable extradition treaties or, if appropriate, shall deliver the alleged perpetrators of terrorist acts to their competent authorities for prosecution, in accordance with their domestic laws, if sufficient legal grounds for doing so exist.

8. In keeping with their domestic laws, shall adopt the necessary measures to refuse to make concessions to terrorists who take hostages and to ensure that they are brought to justice.

9. When they deem it appropriate, shall report to each other and take measures to prevent and address any abuses, related to ter-

[1] Source: http://www.oas.org/EN/PINFO/CONVEN/li00064e.htm

rorist acts, of the privileges and immunities recognized in the Vienna conventions on diplomatic and on consular relations and in the applicable agreements concluded between states and international organizations and agencies.

10. Shall endeavor, in keeping with their domestic laws, to exchange information concerning terrorist individuals, groups, and activities. In this context, when a state finds that there are sufficient grounds for believing that a terrorist act is being planned, that state shall provide as soon as possible any pertinent information to those states potentially affected in order to prevent the commission of that act.

11. Shall endeavor to promote and enhance bilateral, subregional, and multilateral cooperation in police and intelligence matters to prevent, combat, and eliminate terrorism.

12. Shall extend, when possible, their utmost cooperation and technical assistance for the regular and advanced training of personnel entrusted with counterterrorism activities and techniques.

13. Shall coordinate efforts and examine measures to improve cooperation in the areas of border security, transportation, and travel documents in order to prevent terrorist acts. They shall also promote the modernization of border control and information systems to prevent the passage of persons involved in terrorist acts as well as the transport of equipment, arms, and other materials that could be used to commit such acts.

14. Shall make special efforts to adopt, in their territories and in keeping with their domestic laws, measures to prevent the provision of material or financial support for any kind of terrorist activity.

15. Shall adopt measures to prevent the production of, trafficking in, and use of weapons, munitions, and explosive materials for terrorist activities.

16. Shall adopt measures to prevent the terrorist use of nuclear, chemical, and biological materials.

17. When appropriate, shall share information on the findings of and experience afforded by investigations of terrorist activities.

18. Shall endeavor to assist the victims of terrorist acts and shall cooperate among themselves to that end.

19. Where appropriate and in keeping with their domestic laws, shall furnish to the state of which the victims are nationals, in a complete and timely manner, the information in their possession regarding such victims and the circumstances of the crime.

20. Shall endeavor to provide humanitarian and all other forms of assistance to member states upon request following the commission of terrorist acts in their territories.

21. Shall begin to study, within the framework of the OAS and on the basis of an evaluation of existing international instruments, the need for and advisability of a new inter-American convention on terrorism.

22. Shall hold meetings and consultations to afford one another their utmost assistance and cooperation in preventing, combating, and eliminating terrorist activities in the Hemisphere and, within the framework of the OAS, shall follow up on the progress made in implementing this Plan of Action.

23. Shall recommend to the General Assembly of the Organization of American States that it consider convening a meeting of experts to examine ways to improve the exchange of information among the member states in order to prevent, combat, and eliminate terrorism.

d. Summit of the Americas December 9–11, 1994

DECLARATION OF PRINCIPLES

To Preserve and Strengthen the Community of Democracies of the Americas

* * * * * * *

We condemn terrorism in all its forms, and we will, using all legal means, combat terrorist acts anywhere in the Americas with unity and vigor.

* * * * * * *

PLAN OF ACTION

I. Preserving and Strengthening the Community of Democracies of the Americas

* * * * * * *

7. ELIMINATING THE TREAT OF NATIONAL AND INTERNATIONAL TERRORISM

National and international terrorism constitute a systematic and deliberate violation of the rights of individuals and an assault on democracy itself. Recent attacks that some of our countries have suffered have demonstrated the serious threat that terrorism poses to security in the Americas. Actions by governments to combat and eliminate this threat are essential elements in guaranteeing law and order and maintaining confidence in government, both nationally and internationally. Within this context, those who sponsor terrorist acts or assist in their planning or execution through the abuse of diplomatic privileges and immunities or other means will be held responsible by the international community.

Governments will—

- Promote bilateral and subregional agreements with the aim of prosecuting terrorists and penalizing terrorist activities within the context of the protection of human rights and fundamental freedoms.
- Convene a special conference of the OAS on the prevention of terrorism.
- Reaffirm the importance of the extradition treaties ratified by the states of the Hemisphere, and note that these treaties will be strictly complied with as an expression of the political will of governments, in accordance with international law and domestic legislation.

4. International Civil Aviation Organization Documents

a. International Standards and Recommended Practices: Security; Safeguarding International Civil Aviation Against Acts of Unlawful Interference, Annex 17 to the Convention on International Civil Aviation, Sixth Edition, March 1997

ANNEX 17

TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

SIXTH EDITION — MARCH 1997

This edition incorporates all amendments adopted by the Council prior to 13 November 1996 and supersedes on 1 August 1997 all previous editions of Annex 17.

For information regarding the applicability of the Standards and Recommended Practices, *see* Foreword.

INTERNATIONAL CIVIL AVIATION ORGANIZATION

FOREWORD

Historical background

The material included in this Annex was developed by the Council pursuant to the following two resolutions of the Assembly:

Resolution A17-10: Implementation by States of Security Specifications and Practices adopted by this Assembly and further work by ICAO related to such Specifications and Practices

. . . . . .

THE ASSEMBLY:

. . . . . .

(3) REQUESTS the Council, with the assistance of the other constituent bodies of the Organization, to develop and incorporate, as appropriate, the material in the Appendices to this Resolution as Standards, Recommended Practices and Procedures in existing or new Annexes or other regulatory documents or guidance material of the Organization.

Resolution A18-10: Additional Technical Measures for the Protection of the Security of International Civil Air Transport

. . . . . .

THE ASSEMBLY:

(1) REQUESTS the Council to ensure, with respect to the technical aspects of air transportation security, that:

(a) the subject of air transportation security continues to be given adequate attention by the Secretary General, with a priority commensurate with the current threat to the security of air transportation;

. . . . . .

Following the work of the Air Navigation Commission, the Air Transport Committee and the Committee on Unlawful Interference, and as a result of the comments received from Contracting States and interested International Organizations, to whom draft material had been circulated, Standards and Recommended Practices on Security were adopted by the Council on 22 March 1974, pursuant to the provisions of Article 37 of the Convention on International Civil Aviation, and designated as Annex 17 to the Convention with the title "Standards and Recommended Practices — *Security* — Safeguarding International Civil Aviation against Acts of Unlawful Interference".

Table A shows the origin of subsequent amendments together with a list of the principal subjects involved and the dates on which the Annex and the amendments were adopted by the Council, when they became effective and when they became applicable.

Introduction

In order that a comprehensive document may be available to States for implementation of the security measures prescribed by this Annex, an Attachment hereto reproduces extracts from other Annexes, *Technical Instructions for the Safe Transport of Dangerous Goods by Air* (Doc 9284), PANS-RAC and PANS-OPS bearing on the subject of action to be taken by States to prevent unlawful interference with civil aviation, or when such interference has been committed.

Guidance material

The *Security Manual for Safeguarding Civil Aviation Against Acts of Unlawful Interference* (Doc 8973) provides detailed procedures and guidance on aspects of aviation security and is intended to assist States in the implementation of their respective national civil aviation security programmes required by the specifications in the Annexes to the Convention on International Civil Aviation.

Action by Contracting States

Applicability. The provisions of the Standards and Recommended Practices in this document are to be applied by Contracting States.

Notification of differences. The attention of Contracting States is drawn to the obligation imposed by Article 38 of the Convention, by which Contracting States are required to notify the Organization of any differences between their national regulations and practices and the International Standards contained in this Annex and any amendments thereto. Contracting States are invited to keep the Organization currently informed of any differences which may subsequently occur, or of the withdrawal of any difference previously notified. A specific request for notification of differences will be sent to Contracting States immediately after the adoption of each Amendment to this Annex.

Contracting States are also invited to extend such notification to any differences from the Recommended Practices contained in this Annex, and any amendment thereto, when the notification of such differences is important for the safety of air navigation.

Attention of States is also drawn to the provisions of Annex 15 related to the publication of differences between their national regulations and practices and the related ICAO Standards and Recommended Practices through the Aeronautical Information Service, in addition to the obligation of States under Article 38 of the Convention.

Promulgation of information. Information relating to the establishment and withdrawal of and changes to facilities, services and procedures affecting aircraft operations provided according to the Standards and Recommended Practices specified in this Annex should be notified and take effect in accordance with Annex 15.

Use of the text of the Annex in national regulations. The Council, on 13 April 1948, adopted a resolution inviting the attention of Contracting States to the desirability of using in their own national regulations, as far as practicable, the precise language of those ICAO Standards that are of a regulatory character and also of indicating departures from the Standards, including any additional national regulations that were important for the safety or regularity of air navigation. Wherever possible, the provisions of this Annex have been written in such a way as would facilitate incorporation, without major textual changes, into national legislation.

General information

An Annex is made up of the following component parts, not all of which, however, are necessarily found in every Annex; they have the status indicated:

1.— *Material comprising the Annex proper:*

a) *Standards* and *Recommended Practices* adopted by the Council under the provisions of the Convention. They are defined as follows:

Standard: Any specification for physical characteristics, configuration, matériel, performance, personnel or procedure, the uniform application of which is recognized as necessary for the safety or regularity of international air navigation and to which Contracting States will conform in accordance with the Convention; in the event of impossibility of compliance, notification to the Council is compulsory under Article 38 of the Convention.

Recommended Practice: Any specification for physical characteristics, configuration, matériel, performance, personnel or procedure, the uniform application of which is recognized as desirable in the interests of safety, regularity or efficiency of international air navigation, and to which Contracting States will endeavour to conform in accordance with the Convention.

b) *Appendices* comprising material grouped separately for convenience but forming part of the Standards and Recommended Practices adopted by the Council.

c) *Definitions* of terms used in the Standards and Recommended Practices which are not self-explanatory in that they do not have accepted dictionary meanings. A definition does not have an independent status but is an essential part of each Standard and Recommended Practice in which the term is used, since a change in the meaning of the term would affect the specification.

2.— *Material approved by the Council for publication in association with the Standards and Recommended Practices:*

a) *Forewords* comprising historical and explanatory material based on the action of the Council and including an explanation of the obligations of States with regard to the application of the Standards and Recommended Practices ensuing from the Convention and the Resolution of Adoption.

b) *Introductions* comprising explanatory material introduced at the beginning of parts, chapters or sections of the Annex to assist in the understanding of the application of the text.

c) *Notes* included in the text, where appropriate, to give factual information or references bearing on the Standards or Recommended Practices in question, but not constituting part of the Standards or Recommended Practices.

d) *Attachments* comprising material supplementary to the Standards and Recommended Practices, or included as a guide to their application.

This Annex has been adopted in five languages — English, Arabic, French, Russian and Spanish. Each Contracting State is requested to select one of those texts for the purpose of national implementation and for other effects provided for in the Convention, either through direct use or through translation into its own national language, and to notify the Organization accordingly.

The following practice has been adhered to in order to indicate at a glance the status of each statement: *Standards* have been printed in light face roman; *Recommended Practices* have been printed in light face italics, the status being indicated by the prefix **Recommendation**; *Notes* have been printed in light face italics, the status being indicated by the prefix *Note*.

Any reference to a portion of this document which is identified by a number includes all subdivisions of that portion.

Table A. Amendments to Annex 17

Amendment	*Source(s)*	*Subject(s)*	*Adopted* *Effective* *Applicable*
1st Edition	Council action in pursuance of Assembly Resolutions A17-10 and A18-10	—	22 March 1974 22 August 1974 27 February 1975
1	Council action in pursuance of Assembly Resolution A21-23	Change in status of paragraphs 3.1.2 and 5.1.2 to a Standard; compilation and dissemination of information related to an aircraft being subjected to an act of unlawful interference.	31 March 1976 31 July 1976 30 December 1976
2	Proposals of some States and Council action in pursuance of Assembly Resolution A22-17	Transfer of specifications appearing in Chapter 9 of Annex 9 — Facilitation (Seventh Edition) to Annex 17; new provision in Chapter 5 concerning measures to be taken to control transfer and transit passengers and their cabin baggage; and amplification of the Note to paragraph 5.2.4 (Annex 17, Chapter 5) on measures and procedures to prevent unauthorized access to specified areas on an aerodrome.	15 December 1977 15 April 1978 10 August 1978
3	Proposals of some States and the Secretariat and Council action in pursuance of Assembly Resolution A22-17	Specifications were added on the review of the level of threat by States, the development of training programmes, the isolation of security processed passengers, the inspection of aircraft for concealed weapons or other dangerous devices and the adoption of measures for the safety of passengers and crew of unlawfully diverted aircraft. A number of specifications were amplified and the status of one was changed to a Standard, related to the segregation and special guarding of aircraft liable to attack during stopovers.	13 December 1978 13 April 1979 29 November 1979
4 (2nd Edition)	Proposals of some States and an international organization and Council action in pursuance of Assembly Resolution A22-17	A specification was added on the transportation of persons in custody, and two specifications revised to provide for aircraft which were leased, chartered or interchanged. The status of a specification dealing with the safety of passengers and crew of an aircraft subjected to an act of unlawful interference was changed to a Standard; the provisions of a specification dealing with the prevention of sabotage were amplified and Chapter 1. — Applicability, deleted.	15 June 1981 15 October 1981 26 November 1981
5	Proposals of the Committee on Unlawful Interference and Council action in pursuance of Assembly Resolution A22-17	The Note to Chapter 1 — Definitions was deleted. A specification setting out the action required for the transportation of weapons on board aircraft by law enforcement and other duly authorized persons was modified. A specification on the carriage of weapons in all other cases was added and the note to a specification dealing with the safeguarding of unattended aircraft was clarified.	30 November 1984 14 April 1985 21 November 1985
6 (3rd Edition)	Proposals of the Committee on Unlawful Interference with the assistance of an Ad Hoc Group of Experts — Unlawful Interference and Council action in pursuance of Assembly Resolution A22-17	On the instruction of the Council this amendment was undertaken as a matter of urgency by the Committee on Unlawful Interference with the assistance of an Ad Hoc Group of Experts on aviation security which had been appointed on the instruction of the Council. As a consequence 11 new specifications were introduced into the Annex and 19 specifications were adopted as Standards.	19 December 1985 19 March 1986 19 May 1986
		Special effective and applicable dates for 5.1.4 are shown in the adjacent column.	19 October 1987 19 December 1987
		The Council recommended that those States that are able to implement the substance of 5.1.4 do so as soon as it is feasible and practicable before the applicable date.	

Amendment	*Source(s)*	*Subject(s)*	*Adopted* *Effective* *Applicable*
7 (4th Edition)	Proposals of the Committee on Unlawful Interference with the assistance of the Aviation Security Panel and Council action in pursuance of Assembly Resolution A26-7	This amendment includes: a) a reorganization of the chapters of the Annex directed at a rationalization of the sequence of objectives, obligations and necessary actions relating to organization, preventive security measures and management of response; b) the introduction of important new provisions to reflect developments and assist States in confronting new situations which arose from grave acts of unlawful interference against civil aviation, since the last revision of Annex 17 in 1985; and c) the amendment or fine tuning of existing provisions consequential to a) and b) above, as well as to reflect the experience gained in the implementation of such measures.	22 June 1989 30 October 1989 16 November 1989
8 (5th Edition)	Proposals of the Committee on Unlawful Interference with the assistance of the Aviation Security Panel (AVSECP) and Council action in pursuance of Assembly Resolution A27-7	This amendment includes the introduction of important new provisions in relation to the comprehensive security screening of checked baggage, security control over cargo, courier and express parcels and mail, variations to procedures relating to security programmes, pre-flight checks of international aircraft, and measures relating to the incorporation of security consideration into airport design for the purpose of assisting States in the consistent and uniform implementation of such measures.	11 September 1992 16 December 1992 1 April 1993
9 (6th Edition)	Proposals of the Committee on Unlawful Interference with the assistance of the Aviation Security Panel (AVSECP) and Council action in pursuance of Assembly Resolution A31-4	This amendment includes the introduction of new provisions in relation to the pre-employment checks and capabilities of persons engaged in implementing security controls, baggage accountability and authorization, measures to be applied to catering supplies and operators' stores and supplies, tests for programme effectiveness, and need for notification to the State of known or presumed destination of aircraft under a seized condition.	12 November 1996 31 March 1997 1 August 1997

INTERNATIONAL STANDARDS AND RECOMMENDED PRACTICES

CHAPTER 1. DEFINITIONS

Air side. The movement area of an airport, adjacent terrain and buildings or portions thereof, access to which is controlled.

Regulated Agent. An agent, freight forwarder or any other entity who conducts business with an operator and provides security controls that are accepted or required by the appropriate authority in respect of cargo, courier and express parcels or mail.

Note.— The term "Known shipper" has been amended to "Regulated Agent" to take into account the different security controls applied to originators of cargo and those entities that consolidate and forward cargo shipments via an air carrier.

Screening. The application of technical or other means which are intended to detect weapons, explosives or other dangerous devices which may be used to commit an act of unlawful interference.

Security. A combination of measures and human and material resources intended to safeguard international civil aviation against acts of unlawful interference.

Security Control. A means by which the introduction of weapons, explosives or articles likely to be utilized to commit an act of unlawful interference can be prevented.

Security Programme. Measures adopted to safeguard international civil aviation against acts of unlawful interference.

CHAPTER 2. GENERAL

2.1 Aims and objectives

2.1.1 The aim of aviation security shall be to safeguard international civil aviation operations against acts of unlawful interference.

2.1.2 Safety of passengers, crew, ground personnel and the general public shall be the primary objective of each Contracting State in all matters related to safeguarding against acts of unlawful interference with international civil aviation.

2.1.3 Each Contracting State shall establish an organization, develop plans and implement procedures, which together provide a standardized level of security for the operation of international flights in normal operating conditions and which are capable of rapid expansion to meet any increased security threat.

2.2 Security and facilitation

2.2.1 **Recommendation.**— *Each Contracting State should whenever possible arrange for the security measures and procedures to cause a minimum of interference with, or delay to the activities of, international civil aviation.*

Note.— Guidance material on achieving international civil aviation security objectives through application of the Standards and Recommended Practices in the following chapters is to be found in the Security Manual for Safeguarding Civil Aviation Against Acts of Unlawful Interference *(Doc 8973).*

CHAPTER 3. ORGANIZATION

3.1 National organization

3.1.1 Each Contracting State shall establish a national civil aviation security programme.

3.1.2 Each Contracting State shall ensure that the objective of their national civil aviation security programme shall be to safeguard international civil aviation operations against acts of unlawful interference, through regulations, practices and procedures which take account of the safety, regularity and efficiency of flights.

3.1.3 Each Contracting State shall designate an appropriate authority within its administration to be responsible for the development, implementation and maintenance of the national civil aviation security programme.

3.1.4 Each Contracting State shall specify to ICAO the appropriate authority designated under 3.1.3.

3.1.5 Each Contracting State shall keep under constant review the level of threat within its territory taking into account the international situation and adjust relevant elements of its national civil aviation security programme accordingly.

3.1.6 Each Contracting State shall require the appropriate authority to establish means of co-ordinating activities between the departments, agencies and other organizations of the State concerned with or responsible for various aspects of the national civil aviation security programme.

3.1.7 Each Contracting State shall require the appropriate authority to define and allocate the tasks for implementation of the national civil aviation security programme as between agencies of the State, airport administrations, operators and others concerned.

3.1.8 Each Contracting State shall ensure the establishment of an airport security programme, adequate to the needs of international traffic, for each airport serving international civil aviation.

3.1.9 **Recommendation.**— *Each Contracting State should make available to its airport administrations, airlines operating in its territory and others concerned, a written version of the appropriate parts of its national civil aviation security programme.*

3.1.10 Each Contracting State shall arrange for an authority at each airport serving international civil aviation to be responsible for co-ordinating the implementation of security measures.

3.1.11 Each Contracting State shall arrange for the establishment of airport security committees to advise on the development and co-ordination of security measures and procedures at each airport serving international civil aviation.

3.1.12 **Recommendation.**— *Each Contracting State should ensure that arrangements are made for the investigation of suspected sabotage devices or other potential hazards at airports serving international civil aviation and for their disposal.*

3.1.13 Each Contracting State shall ensure that duly authorized and suitably trained officers are readily available for deployment at their airports serving international civil aviation to assist in dealing with suspected, or actual, cases of unlawful interference with international civil aviation.

3.1.14 Each Contracting State shall ensure that the appropriate authority arranges for the supporting facilities required by the security services at each airport serving international civil aviation.

3.1.15 Each Contracting State shall ensure that contingency plans are developed and resources made available to safeguard airports and ground facilities used in international civil aviation, against acts of unlawful interference.

3.1.16 Each Contracting State shall require the appropriate authority to ensure the development and implementation of training programmes to ensure the effectiveness of its national civil aviation security programme.

3.1.17 **Recommendation.**— *Each Contracting State should ensure that persons engaged to implement security controls are subject to pre-employment checks, are capable of fulfilling their duties and are adequately trained.*

3.1.18 Each Contracting State shall require operators providing service from that State to implement a security programme appropriate to meet the requirements of the national civil aviation security programme of that State.

3.1.19 **Recommendation.**— *Each Contracting State should promote whenever possible research and development of new security equipment which will better satisfy international civil aviation security objectives.*

3.2 International co-operation

3.2.1 Each Contracting State shall co-operate with other States in order to adapt their respective national civil aviation security programmes as necessary.

3.2.1.1 **Recommendation.—** *Each Contracting State should make available to other States on request a written version of the appropriate parts of its national civil aviation security programme.*

3.2.1.2 **Recommendation.—** *Each Contracting State should include in its bilateral agreements on air transport a clause related to aviation security.*

3.2.2 Each Contracting State shall ensure that requests from other States for special security measures in respect of a specific flight or specified flights by operators of such other States, as far as may be practicable, are met.

3.2.3 Contracting States shall, as necessary, co-operate with each other in the development and exchange of information concerning training programmes.

3.2.4 **Recommendation.—** *Each Contracting State should co-operate with other States in the field of research and development of new security equipment which will better satisfy international civil aviation security objectives.*

CHAPTER 4. PREVENTIVE SECURITY MEASURES

4.1 General objectives of the measures

4.1.1 Each Contracting State shall establish measures to prevent weapons, explosives or any other dangerous devices which may be used to commit an act of unlawful interference, the carriage or bearing of which is not authorized, from being introduced, by any means whatsoever, on board an aircraft engaged in international civil aviation.

Note.— In applying this Standard, special attention must be paid to the threat posed by explosive devices concealed in, or using electric, electronic or battery-operated items carried as hand baggage and/or in checked baggage. Guidance on this matter is to be found in the Security Manual for Safeguarding Civil Aviation Against Acts of Unlawful Interference *(Doc 8973).*

4.1.2 **Recommendation.—** *Contracting States should ensure that the carriage of weapons on board aircraft, by law enforcement officers and other authorized persons, acting in the performance of their duties, requires special authorization in accordance with the laws of the States involved.*

4.1.2.1 **Recommendation.—** *Contracting States should ensure that the carriage of weapons in other cases is allowed only when an authorized and duly qualified person has determined that they are not loaded, if applicable, and then only if stowed in a place inaccessible to any person during flight time.*

4.1.2.2 **Recommendation.—** *Contracting States should ensure that the pilot-in-command is notified as to the number of armed persons and their seat location.*

4.1.3 Each Contracting State shall ensure that pre-flight checks of originating aircraft assigned to international flights include measures to discover suspicious objects or anomalies that could conceal weapons, explosives or any other dangerous devices.

4.1.4 Each Contracting State shall establish procedures, which include notification to the operator, for inspecting aircraft, when a well-founded suspicion exists that the aircraft may be the object of an act of unlawful interference, for concealed weapons, explosives or other dangerous devices.

4.1.5 Each Contracting State shall establish measures to safeguard aircraft when a well-founded suspicion exists that the aircraft may be attacked while on the ground and to provide as much prior notification as possible of the arrival of such aircraft to airport authorities.

4.1.6 Each Contracting State shall arrange for surveys to identify security needs, arrange for inspections of the implementation of security controls, and arrange tests of security controls to assess their effectiveness.

4.2 Measures relating to passengers and their cabin baggage

4.2.1 Each Contracting State shall ensure that adequate measures are taken to control transfer and transit passengers and their cabin baggage to prevent unauthorized articles from being taken on board aircraft engaged in international civil aviation operations.

4.2.2 Each Contracting State shall ensure that there is no possibility of mixing or contact between passengers subjected to security control and other persons not subjected to such control after the security screening points at airports serving international civil aviation have been passed; if mixing or contact does take place, the passengers concerned and their cabin baggage shall be re-screened before boarding an aircraft.

4.2.3 Each Contracting State shall establish measures to ensure that the aircraft operator and the pilot-in-command are informed when passengers are obliged to travel because they have been the subject of judicial or administrative proceedings, in order that appropriate security measures can be taken.

4.2.4 **Recommendation.—** *Each Contracting State should require operators providing service from that State, to include in their security programmes, measures and procedures to ensure safety on board their aircraft when passengers are to be carried who are obliged to travel because they have been the subject of judicial or administrative proceedings.*

4.2.5 Each Contracting State shall require measures to be taken in respect of flights under an increased threat to ensure that disembarking passengers do not leave items on board the aircraft at transit stops on its airports.

4.3 Measures relating to checked baggage, cargo and other goods

4.3.1 Each Contracting State shall establish measures to ensure that operators when providing service from that State do not transport the baggage of passengers who are not on board the aircraft unless the baggage separated from passengers is subjected to other security control measures.

4.3.2 **Recommendation.**— *Each Contracting State should establish measures to ensure that operators when providing a service from that State transport only baggage which is authorized for carriage.*

4.3.3 **Recommendation.**— *Each Contracting State should establish measures to ensure that checked baggage is subjected to screening before being placed on board aircraft.*

4.3.4 Each Contracting State shall establish measures to ensure that consignments checked-in as baggage by couriers for carriage on passenger flights are subjected to specific security controls in addition to those provided in 4.3.1.

4.3.5 Each Contracting State shall establish measures to ensure that baggage intended for carriage on passenger flights and originating from places other than airport check-in counters is protected from the point it is checked in until it is placed on board an aircraft.

4.3.6 Each Contracting State shall ensure the implementation of measures at airports serving international civil aviation to protect cargo, baggage, mail, stores and operators' supplies being moved within an airport and intended for carriage on an aircraft to safeguard such aircraft against an act of unlawful interference.

4.3.7 **Recommendation.**— *Each Contracting State should establish measures to ensure that catering supplies and operators' stores and supplies intended for carriage on passenger flights are subjected to security controls.*

4.3.8 Each Contracting State shall establish measures to ensure that cargo, courier and express parcels and mail intended for carriage on passenger flights are subjected to appropriate security controls.

4.3.9 Each Contracting State shall establish measures to ensure that operators do not accept consignments of cargo, courier and express parcels or mail for carriage on passenger flights unless the security of such consignments is accounted for by a regulated agent or such consignments are subjected to other security controls to meet the requirements of 4.3.8.

4.3.10 Each Contracting State shall require the establishment of secure storage areas at airports serving international civil aviation, where mishandled baggage may be held until forwarded, claimed or disposed of in accordance with local laws.

4.3.11 **Recommendation.**— *Each Contracting State should take the necessary measures to ensure that unidentified baggage is placed in a protected and isolated area until such time as it is ascertained that it does not contain any explosives or other dangerous device.*

4.4 Measures relating to access control

4.4.1 Each Contracting State shall establish procedures and identification systems to prevent unauthorized access by persons or vehicles to:

a) the air side of an airport serving international civil aviation; and

b) other areas important to the security of the airport.

4.4.2 Each Contracting State shall establish measures to ensure adequate supervision over the movement of persons to and from the aircraft and to prevent unauthorized access to aircraft.

4.5 Measures relating to airport design

Each Contracting State shall ensure that the architectural and infrastructure-related requirements necessary for the optimum implementation of international civil aviation security measures, are integrated into the design and construction of new facilities and alterations to existing facilities at airports.

CHAPTER 5. MANAGEMENT OF RESPONSE TO ACTS OF UNLAWFUL INTERFERENCE

5.1 Operational aspects of an act of unlawful interference

5.1.1 Each Contracting State shall take adequate measures for the safety of passengers and crew of an aircraft which is subjected to an act of unlawful interference until their journey can be continued.

5.1.2 Each Contracting State responsible for providing air traffic services for an aircraft which is the subject of an act of unlawful interference shall collect all pertinent information on the flight of that aircraft and transmit that information to all other States responsible for the Air Traffic Services units concerned, including those at the airport of known or presumed destination, so that timely and appropriate safeguarding action may be taken en route and at the aircraft's known, likely or possible destination.

5.1.3 **Recommendation.—** *Each Contracting State should ensure that information received as a consequence of action taken in accordance with 5.1.2 is distributed locally to the Air Traffic Services units concerned, the appropriate airport administrations, the operator and others concerned as soon as practicable.*

5.1.4 Each Contracting State shall provide such assistance to an aircraft subjected to an act of unlawful seizure, including the provision of navigation aids, air traffic services and permission to land as may be necessitated by the circumstances.

5.1.5 Each Contracting State shall take measures, as it may find practicable, to ensure that an aircraft subjected to an act of unlawful seizure which has landed in its territory is detained on the ground unless its departure is necessitated by the overriding duty to protect human life, recognizing the importance of consultations, wherever practicable, between the State where that aircraft has landed and the State of the operator of the aircraft, and notification by the State where the aircraft has landed to the States of assumed or stated destination.

5.2 Reports

5.2.1 **Recommendation.—** *Each Contracting State should exchange information with other States as considered appropriate, at the same time supplying such information to ICAO, related to plans, designs, equipment, methods and procedures for safeguarding international civil aviation against acts of unlawful interference.*

5.2.2 A Contracting State in which an aircraft subjected to an act of unlawful interference has landed shall notify by the most expeditious means the State of Registry of the aircraft and the State of the operator of the landing and shall similarly transmit by the most expeditious means all other relevant information to:

a) the two above-mentioned States;

b) each State whose citizens suffered fatalities or injuries;

c) each State whose citizens were detained as hostages;

d) each Contracting State whose citizens are known to be on board the aircraft; and

e) the International Civil Aviation Organization.

5.2.3 Each Contracting State concerned with an act of unlawful interference shall require its appropriate authority to re-evaluate security measures and procedures in respect of international flights which have been the subject of unlawful interference and take action necessary to remedy weaknesses so as to prevent recurrence.

5.2.4 Each Contracting State concerned with an act of unlawful interference shall provide ICAO with all pertinent information concerning the security aspects of the act of unlawful interference as soon as practicable after the act is resolved.

5.2.5 **Recommendation.—** *Each Contracting State should adopt measures to ensure that persons acting in an official capacity do not divulge confidential information concerning an act of unlawful interference if such information is likely to jeopardize the safety of international civil aviation.*

ATTACHMENT TO ANNEX 17

EXTRACTS FROM *ANNEX 2 — RULES OF THE AIR*

CHAPTER 3. GENERAL RULES

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3.7 Unlawful interference

An aircraft which is being subjected to unlawful interference shall endeavour to notify the appropriate ATS unit of this fact, any significant circumstances associated therewith and any deviation from the current flight plan necessitated by the circumstances, in order to enable the ATS unit to give priority to the aircraft and to minimize conflict with other aircraft.

Note 1.— Responsibility of ATS units in situations of unlawful interference is contained in Annex 11.

Note 2.— Guidance material for use when unlawful interference occurs and the aircraft is unable to notify an ATS unit of this fact is contained in Attachment B to this Annex.

Note 3.— Action to be taken by SSR equipped aircraft which are being subjected to unlawful interference is contained in Annex 11, the PANS-RAC (Doc 4444) and the PANS-OPS (Doc 8168).

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ATTACHMENT B. UNLAWFUL INTERFERENCE

1. General

The following procedures are intended as guidance for use by aircraft when unlawful interference occurs and the aircraft is unable to notify an ATS unit of this fact.

2. Procedures

2.1 Unless considerations aboard the aircraft dictate otherwise, the pilot-in-command should attempt to continue flying on the assigned track and at the assigned cruising level at least until able to notify an ATS unit or within radar coverage.

2.2 When an aircraft subjected to an act of unlawful interference must depart from its assigned track or its assigned cruising level without being able to make radiotelephony contact with ATS, the pilot-in-command should, whenever possible:

a) attempt to broadcast warnings on the VHF emergency frequency and other appropriate frequencies, unless considerations aboard the aircraft dictate otherwise. Other equipment such as on-board transponders, data links, etc., should also be used when it is advantageous to do so and circumstances permit; and

b) proceed in accordance with applicable special procedures for in-flight contingencies, where such procedures have been established and promulgated in Doc 7030 — *Regional Supplementary Procedures*; or

c) if no applicable regional procedures have been established, proceed at a level which differs from the cruising levels normally used for IFR flight in the area by 300 m (1 000 ft) if above FL 290 or by 150 m (500 ft) if below FL 290.

Note.— Action to be taken by an aircraft which is intercepted while being subject to an act of unlawful interference is prescribed in 3.8 of this Annex.

EXTRACTS FROM *ANNEX 6 — OPERATION OF AIRCRAFT*
PART I — *INTERNATIONAL COMMERCIAL AIR TRANSPORT — AEROPLANES*

CHAPTER 13. SECURITY*

13.1 Security of the flight crew compartment

In all aeroplanes which are equipped with a flight crew compartment door, this door shall be capable of being locked. It shall be lockable from within the compartment only.

13.2 Aeroplane search procedure checklist

An operator shall ensure that there is on board a checklist of the procedures to be followed in searching for a bomb in case of suspected sabotage. The checklist shall be supported by guidance on the course of action to be taken should a bomb or suspicious object be found and information on the least-risk bomb location specific to the aeroplane.

13.3 Training programmes

13.3.1 An operator shall establish and maintain a training programme which enables crew members to act in the most appropriate manner to minimize the consequences of acts of unlawful interference.

13.3.2 An operator shall also establish and maintain a training programme to acquaint appropriate employees with preventive measures and techniques in relation to passengers, baggage, cargo, mail, equipment, stores and supplies intended for carriage on an aeroplane so that they contribute to the prevention of acts of sabotage or other forms of unlawful interference.

13.4 Reporting acts of unlawful interference

Following an act of unlawful interference the pilot-in-command shall submit, without delay, a report of such an act to the designated local authority.

13.5 Miscellaneous

13.5.1 **Recommendation.—** *Specialized means of attenuating and directing the blast should be provided for use at the least-risk bomb location.*

13.5.2 **Recommendation.—** *Where an operator accepts the carriage of weapons removed from passengers, the aeroplane should have provision for stowing such weapons in a place so that they are inaccessible to any person during flight time.*

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* In the context of this Chapter, the word "security" is used in the sense of prevention of illicit acts against civil aviation.

EXTRACTS FROM *ANNEX 9 — FACILITATION*

CHAPTER 1. DEFINITIONS AND APPLICABILITY

A. Definitions

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Security equipment. Devices of a specialized nature for use, individually or as part of a system, in the prevention or detection of acts of unlawful interference with civil aviation and its facilities.

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CHAPTER 2. ENTRY AND DEPARTURE OF AIRCRAFT

A. General

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2.2 Contracting States shall make provision whereby procedures for the clearance of aircraft, including those normally applied for aviation security purposes, as well as those appropriate for narcotics control, will be applied and carried out in such a manner as to retain the advantage of speed inherent in air transport.

Note 1.— With respect to application of aviation security measures, attention is drawn to Annex 17 and to the ICAO Security Manual.

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CHAPTER 3. ENTRY AND DEPARTURE OF PERSONS AND THEIR BAGGAGE

A. General

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3.2 Contracting States shall make provision whereby the procedures for clearance of persons travelling by air, including those normally applied for aviation security purposes, as well as those appropriate for narcotics control, will be applied and carried out in such a manner as to retain the advantage of speed inherent in air transport.

Note 1.— With respect to application of aviation security measures, attention is drawn to Annex 17 and to the ICAO Security Manual.

Note 2.— With respect to application of appropriate narcotics control measures, attention is drawn to the relevant ICAO publication (currently in preparation).

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C. Departure Requirements and Procedures

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3.29 **Recommended Practice.—** *Contracting States should, in conformity with their respective regulations, endeavour to reduce the documentation required to be produced by passengers departing from their territories to a valid passport or other acceptable form of identity document.*

Note.— It is not the intent of the above provision to discourage Contracting States, who wish to be more liberal, from accepting official documents of identity such as expired passports, national registration cards, seafarers' identity documents, alien resident permits, crew member certificates, etc. in lieu of a valid passport.

3.30 **Recommended Practice.—** *Contracting States should not require presentation of baggage of passengers departing from their territory except for aviation security measures, or in special circumstances.*

Note.— This provision is not intended to prevent the application of appropriate narcotics control measures.

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CHAPTER 4. ENTRY AND DEPARTURE OF CARGO AND OTHER ARTICLES

A. General

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4.2 Contracting States shall make provisions whereby procedures for the clearance of goods carried by air and for the interchange of air cargo with surface transport, including

those normally applied for aviation security purposes as well as those appropriate for narcotics control, will be applied and carried out in such a manner as to retain the advantage of speed inherent in air transport and to avoid delay.

Note 1.— With respect to application of aviation security measures, attention is drawn to Annex 17 and to the ICAO Security Manual.

Note 2.— With respect to application of appropriate narcotics control measures, attention is drawn to the relevant ICAO publication (currently in preparation).

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C. Clearance of Export Cargo

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4.11 Contracting States shall make arrangements consistent with aviation security, as well as those appropriate for narcotics control, which permit operators to select and load cargo, including unaccompanied baggage, and stores on outbound aircraft up to the time of departure.

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4.13 Except for reasons of aviation security Contracting States shall not normally require physical examination of cargo, including unaccompanied baggage, to be exported by air.

Note.— This provision is not intended to prevent authorities from examining goods exported under certain conditions, e.g. under bond, licence or drawback, nor is it intended to preclude other essential examinations including any appropriate narcotics control measures.

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4.15 Contracting States shall permit cargo, including unaccompanied baggage which is to be exported by air, to be presented for clearance purposes at any approved customs office. Transfer from the first office to the air customs office of the airport where the cargo, including unaccompanied baggage, is to be laden on the aircraft, shall be effected in accordance with the procedure laid down in the laws and regulations of the State concerned. Such procedure shall be as simple as possible, making due allowance for aviation security requirements, and any appropriate narcotics control measures.

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G. Aircraft Equipment, Stores and Parts

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4.44 **Recommended Practice.**— *Ground equipment and security equipment imported into the territory of a Contracting State by an airline of another Contracting State for use within the limits of an international airport in connexion with the establishment or maintenance of an international service operated by that airline should be admitted free of customs duties and, as far as possible, other taxes and charges, subject to compliance with the regulations of the Contracting State concerned. Such regulations should not unreasonably interfere with the necessary use by the airline concerned of such ground equipment and security equipment.*

Note.— It is the intent of this provision that items such as the following should be admissible under the above provision, and it is not desired to discourage a Contracting State from allowing once-admitted items to be used by another foreign airline or at a location other than an international airport:

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e) Security equipment:

— weapon-detecting devices;

— explosives-detecting devices;

— intrusion-detecting devices.

f) Component parts for incorporation into security equipment.

. . . . . .

4.47 Contracting States shall establish procedures for airlines and/or operators of other Contracting States allowing the prompt entry into or departure from their territories of aircraft equipment, spare parts, ground, training and security equipment, whether or not they are free of customs duties and other taxes and charges, under the provisions of this Annex or any other arrangements. Contracting States shall grant prompt clearance for the importation and exportation of such goods upon completion of simplified documentary procedures by the airlines or operators concerned. These arrangements shall not extend to goods intended for general sale, food, beverages and tobacco.

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4.49 Contracting States shall allow the loan of aircraft equipment and spare parts and security equipment and spare parts between airlines, when these are used in connexion with the establishment or maintenance of scheduled international air services, without payment of customs duties or other taxes or charges subject only to control measures which may provide that repayment of the loan is normally to be accomplished by means of the return of articles that are

qualitatively and technically similar and of the same origin, and in any event that no profit-making transaction is involved.

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CHAPTER 6. INTERNATIONAL AIRPORTS — FACILITIES AND SERVICES FOR TRAFFIC

A. General

6.1 Contracting States shall take all necessary steps to secure the co-operation of operators and airport administrations in ensuring that satisfactory facilities and services are provided for rapid handling and clearance of passengers, crew, baggage, cargo and mail at their international airports. Such facilities and services shall be flexible and capable of expansion to meet anticipated growth in traffic volume, or increased security measures during higher threat situations, while permitting appropriate narcotics control measures.

Note 1.— With respect to the application of aviation security measures, attention is drawn to the relevant specification in Annex 17, Chapter 2 [2.2.1].

Note 2.— With respect to the application of appropriate narcotics control measures, attention is drawn to the relevant ICAO publication (currently in preparation).

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B. Airport Traffic Flow Arrangements

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III. Outbound Passengers, Crew and Baggage

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6.21 **Recommended Practice.**— *In order to facilitate aircraft departure, Contracting States, in examining passengers as a security measure, or for purposes of narcotics control as appropriate, should, to the extent feasible, utilize specialized equipment in conducting such examinations so as to reduce materially the number of persons to be searched by other means.*

Note 1.— The use of radiological techniques for screening passengers should be avoided.

Note 2.— Privacy should be assured when a thorough physical search is to be carried out. If special rooms are not available, portable screens may be used for this purpose.

6.22 **Recommended Practice.**— *In order to facilitate aircraft departure, Contracting States, in examining baggage of passengers departing from their territory as a security measure, or for narcotics control purposes as appropriate, should, to the extent feasible, utilize specialized equipment in conducting such examinations so as to reduce materially the amount of baggage to be searched by other means.*

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V. Transit and Transfer of Passengers and Crew

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6.33 **Recommended Practice.**— *Contracting States should ensure that physical facilities at airports are provided, where the volume and nature of the traffic so require, whereby crew and passengers in direct transit on the same aircraft, or transferring to other flights, may remain temporarily without being subject to inspection formalities, except for aviation security measures, or in special circumstances.*

Note.— This provision is not intended to prevent the application of appropriate narcotics control measures.

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VII. Cargo and Mail Handling and Clearance Facilities

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6.44 **Recommended Practice.**— *Adequate space should be available in cargo terminals for storage and handling of air cargo, including building up and breaking down of pallet and container loads, located next to the customs area and easily accessible to authorized persons and vehicles from both the apron and the landside road. Such arrangements should take into account aviation security and appropriate narcotics control measures.*

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6.46 **Recommended Practice.**— *Cargo terminals should be equipped with storage facilities as appropriate for special cargo (e.g. valuable goods, perishable shipments, human remains, radioactive and other dangerous goods, as well as live animals). Those areas of cargo terminals in which cargo and mail are stored overnight or for extended periods prior to shipment by air should be protected against access by unauthorized persons.*

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CHAPTER 8. OTHER FACILITATION PROVISIONS

A. Bonds and Exemption from Requisition or Seizure

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8.2 **Recommended Practice.**— *The aircraft, ground equipment, security equipment, spare parts and technical supplies of an airline located in a Contracting State (other than the Contracting State in which such airline is established) for use in the operation of an international air service serving such Contracting State, should be exempt from the laws of such Contracting State authorizing the requisition or seizure of aircraft, equipment, parts or supplies for public use, without prejudice to the right of seizure for breaches of the laws of the Contracting State concerned.*

EXTRACTS FROM *ANNEX 10 — AERONAUTICAL TELECOMMUNICATIONS,* VOLUME IV *(SURVEILLANCE RADAR AND COLLISION AVOIDANCE SYSTEMS)*

CHAPTER 2. GENERAL

2.1 SECONDARY SURVEILLANCE RADAR (SSR)

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2.1.4 Mode A reply codes (information pulses)

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2.1.4.2.1 Code 7700 to provide recognition of an aircraft in an emergency.

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2.1.4.2.3 Code 7500 to provide recognition of an aircraft which is being subjected to unlawful interference.

2.1.4.3 Appropriate provisions shall be made in ground decoding equipment to ensure immediate recognition of Mode A codes 7500, 7600 and 7700.

EXTRACTS FROM *ANNEX 11 — AIR TRAFFIC SERVICES*

CHAPTER 2. GENERAL

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2.22 Service to aircraft in the event of an emergency

2.22.1 An aircraft known or believed to be in a state of emergency, including being subjected to unlawful interference, shall be given maximum consideration, assistance and priority over other aircraft as may be necessitated by the circumstances.

Note.— To indicate that it is in a state of emergency, an aircraft equipped with an SSR transponder might operate the equipment as follows:

a) on Mode A, Code 7700; or

b) on Mode A, Code 7500, to indicate specifically that it is being subjected to unlawful interference.

2.22.2 When an occurrence of unlawful interference with an aircraft takes place or is suspected, ATS units shall attend promptly to requests by the aircraft. Information pertinent to the safe conduct of the flight shall continue to be transmitted and necessary action shall be taken to expedite the conduct of all phases of the flight, specially the safe landing of the aircraft.

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CHAPTER 5. ALERTING SERVICE

5.1 Application

5.1.1 Alerting service shall be provided:

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c) to any aircraft known or believed to be the subject of unlawful interference.

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5.2 Notification of rescue co-ordination centres

5.2.1 Without prejudice to any other circumstances that may render such notification advisable, air traffic services units shall, except as prescribed in 5.5.1, notify rescue co-ordination centres immediately an aircraft is considered to be in a state of emergency in accordance with the following:

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b) *Alert phase* when:

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except when evidence exists that would allay apprehension as to the safety of the aircraft and its occupants, or when

4) an aircraft is known or believed to be the subject of unlawful interference.

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5.5 Information to the operator

5.5.1 When an area control or a flight information centre decides that an aircraft is in the uncertainty or the alert phase, it shall, when practicable, advise the operator prior to notifying the rescue co-ordination centre.

Note.— If an aircraft is in the distress phase, the rescue co-ordination centre has to be notified immediately in accordance with 5.2.1.

5.5.2 All information notified to the rescue co-ordination centre by an area control or flight information centre shall, whenever practicable, also be communicated, without delay, to the operator.

5.6 Information to aircraft operating in the vicinity of an aircraft in a state of emergency

5.6.1 When it has been established by an air traffic services unit that an aircraft is in a state of emergency, other aircraft known to be in the vicinity of the aircraft involved shall, except as provided in 5.6.2, be informed of the nature of the emergency as soon as practicable.

5.6.2 When an air traffic services unit knows or believes that an aircraft is being subjected to unlawful interference, no reference shall be made in ATS air-ground communications to the nature of the emergency unless it has first been referred to in communications from the aircraft involved and it is certain that such reference will not aggravate the situation.

EXTRACTS FROM *ANNEX 13 — AIRCRAFT ACCIDENT AND INCIDENT INVESTIGATION*

CHAPTER 5. INVESTIGATION

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ORGANIZATION AND CONDUCT OF THE INVESTIGATION

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RESPONSIBILITY OF THE STATE CONDUCTING THE INVESTIGATION

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Informing aviation security authorities

5.11 If, in the course of an investigation it becomes known, or it is suspected, that an act of unlawful interference was involved, the investigator-in-charge shall immediately initiate action to ensure that the aviation security authorities of the State(s) concerned are so informed.

EXTRACTS FROM *ANNEX 14 — AERODROMES,* VOLUME I — *AERODROME DESIGN AND OPERATIONS*

CHAPTER 3. PHYSICAL CHARACTERISTICS

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3.13 Isolated aircraft parking position

3.13.1 An isolated aircraft parking position shall be designated or the aerodrome control tower shall be advised of an area or areas suitable for the parking of an aircraft which is known or believed to be the subject of unlawful interference, or which for other reasons needs isolation from normal aerodrome activities.

3.13.2 **Recommendation.—** *The isolated aircraft parking position should be located at the maximum distance practicable and in any case never less than 100 m from other parking positions, buildings or public areas, etc. Care should be taken to ensure that the position is not located over underground utilities such as gas and aviation fuel and, to the extent feasible, electrical or communication cables.*

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CHAPTER 5. VISUAL AIDS FOR NAVIGATION

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5.3 Lights

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5.3.20 Apron floodlighting
(see also 5.3.15.1 and 5.3.16.1)

Application

5.3.20.1 **Recommendation.—** *Apron floodlighting should be provided on an apron, and on a designated isolated aircraft parking position, intended to be used at night.*

Note 1.— The designation of an isolated aircraft parking position is specified in 3.13.

Note 2.— Guidance on apron floodlighting is given in the Aerodrome Design Manual, *Part 4.*

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CHAPTER 8. EQUIPMENT AND INSTALLATIONS

8.1 Secondary power supply

General

Application

8.1.1 **Recommendation.—** *A secondary power supply should be provided, capable of supplying the power requirements of at least the aerodrome facilities listed below:*

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e) essential security lighting, if provided in accordance with 8.5;

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8.4 Fencing

Application

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8.4.2 **Recommendation.—** *A fence or other suitable barrier should be provided on an aerodrome to deter the inadvertent or premeditated access of an unauthorized person onto a non-public area of the aerodrome.*

Note 1.— This is intended to include the barring of sewers, ducts, tunnels, etc., where necessary to prevent access.

Note 2.— Special measures may be required to prevent the access of an unauthorized person to runways or taxiways which overpass public roads.

8.4.3 **Recommendation.—** *Suitable means of protection should be provided to deter the inadvertent or premeditated access of unauthorized persons into ground installations and facilities essential for the safety of civil aviation located off the aerodrome.*

Location

8.4.4 **Recommendation.—** *The fence or barrier should be located so as to separate the movement area and other facilities or zones on the aerodrome vital to the safe operation of aircraft from areas open to public access.*

8.4.5 **Recommendation.—** *When greater security is thought necessary, a cleared area should be provided on both sides of the fence or barrier to facilitate the work of patrols and to make trespassing more difficult. Consideration should be given to the provision of a perimeter road inside the aerodrome fencing for the use of both maintenance personnel and security patrols.*

8.5 Security lighting

Recommendation.— *At an aerodrome where it is deemed desirable for security reasons, a fence or other barrier provided for the protection of international civil aviation and its facilities should be illuminated at a minimum essential level. Consideration should be given to locating lights so that the ground area on both sides of the fence or barrier, particularly at access points, is illuminated.*

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CHAPTER 9. EMERGENCY AND OTHER SERVICES

9.1 Aerodrome emergency planning

General

Introductory Note.— Aerodrome emergency planning is the process of preparing an aerodrome to cope with an emergency occurring at the aerodrome or in its vicinity. The objective of aerodrome emergency planning is to minimize the effects of an emergency, particularly in respect of saving lives and maintaining aircraft operations. The aerodrome emergency plan sets forth the procedures for co-ordinating the response of different aerodrome agencies (or services) and of those agencies in the surrounding community that could be of assistance in responding to the emergency. Guidance material to assist the appropriate authority in establishing aerodrome emergency planning is given in the Airport Services Manual, *Part 7.*

9.1.1 An aerodrome emergency plan shall be established at an aerodrome, commensurate with the aircraft operations and other activities conducted at the aerodrome.

9.1.2 The aerodrome emergency plan shall provide for the co-ordination of the actions to be taken in an emergency occurring at an aerodrome or in its vicinity.

Note.— Examples of emergencies are: aircraft emergencies, sabotage including bomb threats, unlawfully seized aircraft, dangerous goods occurrences, building fires and natural disasters.

9.1.3 The plan shall co-ordinate the response or participation of all existing agencies which, in the opinion of the appropriate authority, could be of assistance in responding to an emergency.

Note.— Examples of agencies are:

— *on the aerodrome: air traffic control unit, rescue and fire fighting services, aerodrome administration, medical and ambulance services, aircraft operators, security services, and police;*

— *off the aerodrome: fire departments, police, medical and ambulance services, hospitals, military, and harbour patrol or coast guard.*

9.1.4 **Recommendation.—** *The plan should provide for co-operation and co-ordination with the rescue co-ordination centre, as necessary.*

9.1.5 **Recommendation.—** *The aerodrome emergency plan document should include at least the following:*

a) types of emergencies planned for;

b) agencies involved in the plan;

c) responsibility and role of each agency, the emergency operations centre and the command post, for each type of emergency;

d) information on names and telephone numbers of offices or people to be contacted in the case of a particular emergency; and

e) a grid map of the aerodrome and its immediate vicinity.

Emergency operations centre and command post

9.1.6 **Recommendation.—** *A fixed emergency operations centre and a mobile command post should be available for use during an emergency.*

9.1.7 **Recommendation.—** *The emergency operations centre should be a part of the aerodrome facilities and should be responsible for the over-all co-ordination and general direction of the response to an emergency.*

9.1.8 **Recommendation.—** *The command post should be a facility capable of being moved rapidly to the site of an emergency, when required, and should undertake the local co-ordination of those agencies responding to the emergency.*

9.1.9 **Recommendation.—** *A person should be assigned to assume control of the emergency operations centre and, when appropriate, another person the command post.*

Communication system

9.1.10 **Recommendation.—** *Adequate communication systems linking the command post and the emergency operations centre with each other and with the participating agencies should be provided in accordance with the plan and consistent with the particular requirements of the aerodrome.*

Aerodrome emergency exercise

9.1.11 The plan shall contain procedures for periodic testing of the adequacy of the plan and for reviewing the results in order to improve its effectiveness.

Note.— The plan includes all participating agencies and associated equipment.

9.1.12 The plan shall be tested by conducting:

a) a full-scale aerodrome emergency exercise at intervals not exceeding two years; and

b) partial emergency exercises in the intervening year to ensure that any deficiencies found during the full-scale aerodrome emergency exercise have been corrected; and

reviewed thereafter, or after an actual emergency, so as to correct any deficiency found during such exercises or actual emergency.

Note.— The purpose of a full-scale exercise is to ensure the adequacy of the plan to cope with different types of emergencies. The purpose of a partial exercise is to ensure the adequacy of the response to individual participating agencies and components of the plan, such as the communications system.

EXTRACTS FROM *ANNEX 18 — THE SAFE TRANSPORT OF DANGEROUS GOODS BY AIR*

CHAPTER 2. APPLICABILITY

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2.2 Dangerous Goods Technical Instructions

2.2.1 Each Contracting State shall take the necessary measures to achieve compliance with the detailed provisions contained in the *Technical Instructions for the Safe Transport of Dangerous Goods by Air* (Doc 9284), approved, issued and amended in accordance with the procedure established by the ICAO Council.

2.2.2 **Recommendation.—** *Each Contracting State should inform ICAO of difficulties encountered in the application of the Technical Instructions and of any amendments which it would be desirable to make to them.*

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CHAPTER 10. ESTABLISHMENT OF TRAINING PROGRAMMES

Dangerous goods training programmes shall be established and updated as provided for in the Technical Instructions.

EXTRACTS FROM DOC 9284 — *TECHNICAL INSTRUCTIONS FOR THE SAFE TRANSPORT OF DANGEROUS GOODS BY AIR*

PART 6 — TRAINING

Chapter 1
TRAINING

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1.1 ESTABLISHMENT OF TRAINING PROGRAMMES

1.1.1 Initial and recurrent dangerous goods training programmes must be established and maintained by or on behalf of:

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g) agencies engaged in the security screening of passengers and their baggage.

EXTRACTS FROM THE PROCEDURES FOR AIR NAVIGATION SERVICES — *RULES OF THE AIR AND AIR TRAFFIC SERVICES* (DOC 4444)

PART III. AREA CONTROL SERVICE

SEPARATION OF AIRCRAFT IN THE PROVISION OF AREA CONTROL SERVICE

1. General provisions for the separation of controlled traffic

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1.3 Larger separations than the specified minima should be applied whenever wake turbulence or exceptional circumstances such as unlawful interference call for extra precautions. This should be done with due regard to all relevant factors so as to avoid impeding the flow of air traffic by the application of excessive separations.

Note 1.— Unlawful interference with an aircraft constitutes a case of exceptional circumstances which might require the application of separations larger than the specified minima, between the aircraft being subjected to unlawful interference and other aircraft.

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EMERGENCY AND COMMUNICATION FAILURE

16. Emergency procedures

16.1 General

16.1.1 The various circumstances surrounding each emergency situation preclude the establishment of exact detailed procedures to be followed. The procedures outlined herein are intended as a general guide to air traffic services personnel. Air traffic control units shall maintain full and complete co-ordination, and personnel shall use their best judgement in handling emergency situations.

Note.— To indicate that it is in a state of emergency, an aircraft equipped with an SSR transponder might operate the equipment as follows:

a) on Mode A, Code 7700; or

b) on Mode A, Code 7500, to indicate specifically that it is being subjected to unlawful interference.

16.2 Priority

16.2.1 An aircraft known or believed to be in a state of emergency, including being subjected to unlawful interference, shall be given priority over other aircraft.

16.3 Unlawful interference

16.3.1 Air traffic services personnel shall be prepared to recognize any indication of the occurrence of unlawful interference with an aircraft.

16.3.2 Whenever unlawful interference with an aircraft is suspected, and where automatic distinct display of SSR Mode A Code 7500 and Code 7700 is not provided, the radar controller shall attempt to verify his suspicion by setting the SSR decoder to Mode A Code 7500 and thereafter to Code 7700.

Note.— An aircraft equipped with an SSR transponder is expected to operate the transponder on Mode A Code 7500 to indicate specifically that it is the subject of unlawful interference. The aircraft may operate the transponder on Mode A Code 7700, to indicate that it is threatened by grave and imminent danger, and requires immediate assistance.

16.3.3 Whenever unlawful interference with an aircraft is known or suspected, ATS units shall promptly attend to requests by or to anticipated needs of the aircraft, including requests for relevant information relating to air navigation facilities, procedures and services along the route of flight and at any aerodrome of intended landing, and shall take such action as is necessary to expedite the conduct of all phases of the flight.

16.3.3.1 ATS units shall also:

a) transmit, and continue to transmit, information pertinent to the safe conduct of the flight, without expecting a reply from the aircraft;

b) monitor and plot the progress of the flight with the means available, and co-ordinate transfer of control with adjacent ATS units without requiring transmissions or other responses from the aircraft, unless communication with the aircraft remains normal;

c) inform and continue to keep informed, appropriate ATS units, including those in adjacent flight information regions, which may be concerned with the progress of the flight;

Note.— In applying this provision, account must be taken of all the factors which may affect the progress of the flight, including fuel endurance and the possibility of sudden changes in route and destination. The objective is to provide, as far in advance as is practicable in the circumstances, each ATS unit with appropriate information as to the expected or possible penetration of the aircraft into its area of responsibility.

d) notify:

i) the operator or his designated representative;

ii) the appropriate rescue co-ordination centre in accordance with appropriate alerting procedures;

iii) the designated security authority;

Note.— It is assumed that the designated security authority and/or the operator will in turn notify other parties concerned in accordance with pre-established procedures.

e) relay appropriate messages, relating to the circumstances associated with the unlawful interference, between the aircraft and designated authorities.

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PART V. AERODROME CONTROL SERVICE

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CONTROL OF AERODROME TRAFFIC

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10. Control of taxiing aircraft

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Note.— See Figures V-4.

10.4 An aircraft known or believed to be the subject of unlawful interference or which for other reasons needs isolation from normal aerodrome activities shall be cleared to the designated isolated parking position. Where such an isolated parking position has not been designated, or if the designated position is not available, the aircraft shall be cleared to a position within the area or areas selected by prior agreement with the aerodrome authority. The taxi clearance shall specify the taxi route to be followed to the parking position. This route shall be selected with a view to minimizing any security risks to the public, other aircraft and installations at the aerodrome.

Note.— See Annex 14, Volume I, Chapter 3.

EXTRACTS FROM THE PROCEDURES FOR AIR NAVIGATION SERVICES — *AIRCRAFT OPERATIONS* (DOC 8168), VOLUME I — *FLIGHT PROCEDURES*

PART VIII. — SECONDARY SURVEILLANCE RADAR (SSR) TRANSPONDER OPERATING PROCEDURES

CHAPTER 1. OPERATION OF TRANSPONDERS

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1.4 EMERGENCY PROCEDURES

1.4.1 The pilot of an aircraft encountering a state of emergency shall set the transponder to Mode A Code 7700 except when previously directed by ATC to operate the transponder on a specified code. In the latter case the pilot shall maintain the specified code unless otherwise advised by ATC.

1.4.2 Notwithstanding the procedures at 1.4.1, a pilot may select Mode A Code 7700 whenever there is a specific reason to believe that this would be the best course of action.

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1.6 UNLAWFUL INTERFERENCE WITH AIRCRAFT IN FLIGHT

1.6.1 Should an aircraft in flight be subjected to unlawful interference, the pilot-in-command shall endeavour to set the transponder to Mode A Code 7500 to give indication of the situation unless circumstances warrant the use of Code 7700.

1.6.2 A pilot, having selected Mode A Code 7500 and subsequently requested to confirm this code by ATC in accordance with 1.1.5 shall, according to circumstances, either confirm this or not reply at all.

Note.— The absence of a reply from the pilot will be taken by ATC as an indication that the use of Code 7500 is not due to an inadvertent false code selection.

— END —

b. A31–A: Consolidated Statement of Continuing ICAO Policies Related to the Safeguarding of International Civil Aviation Against Acts of Unlawful Interference [1]

Whereas the development of international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to general security;

Whereas the threat of terrorist acts, unlawful seizure of aircraft and other acts of unlawful interference against civil aviation, including acts aimed at destruction of aircraft, have a serious adverse effect on the safety, efficiency and regularity of international civil aviation, endanger the lives of aircraft passengers and crews and undermine the confidence of the peoples of the world in the safety of international civil aviation;

Whereas it is considered desirable to consolidate Assembly resolutions on the policies related to the safeguarding of international civil aviation against acts of unlawful interference in order to facilitate their implementation and practical application by making their texts more readily available, understandable and logically organized;

Whereas in Resolution A29–5 the Assembly resolved to adopt at each session a consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference; and

Whereas the Assembly has reviewed proposals by the Council for the amendment of the consolidated statement of continuing ICAO policies in Resolution A29–5, Appendices A to H inclusive, and has amended the statement to reflect the decisions taken during the 31st Session;

The Assembly:

1. Resolves that the Appendices attached to this resolution constitute the consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference, up to date as these policies exist at the close of the 31st Session of the Assembly;

2. Resolves to request the Council to submit at each ordinary session for review a consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference; and

3. Declares that this resolution supersedes Resolution A29–5.

[1] Source: International Civil Aviation Organization homepage: http/www.cam.org/icao/

APPENDIX A

GENERAL POLICY

Whereas acts of unlawful interference against international civil aviation have become the main threat to its safe and orderly development;

Recognizing that all acts of unlawful interference against international civil aviation constitute a grave offence in violation of international law; and

Endorsing actions taken so far by the Council, in particular by adopting new preventive measures, strengthening the means available to the Organization and assuming functions related to the implementation of the Convention on the Marking of Plastic Explosives for the Purpose of Detection;

The Assembly:

1. Strongly condemns all acts of unlawful interference against civil aviation wherever and by whomsoever and for whatever reason they are perpetrated;

2. Reaffirms the important role of the International Civil Aviation Organization to facilitate the resolution of questions which may arise between Contracting States in relation to matters affecting the safe and orderly operation of international civil aviation throughout the world;

3. Reaffirms that aviation security must continue to be treated as a matter of highest priority by the International Civil Aviation Organization and its Member States;

4. Notes with abhorrence acts of unlawful interference aimed at the total destruction in flight of civil aircraft in commercial service and the death of all on board;

5. Calls upon all Contracting States to confirm their resolute support for the established policy of ICAO by applying the most effective security measures individually and in co-operation with one another, to suppress acts of unlawful interference and to punish the perpetrators of any such acts; and

6. Directs the Council to continue its work relating to measures for prevention of acts of unlawful interference.

APPENDIX B

INTERNATIONAL LEGAL INSTRUMENTS FOR THE SUPPRESSION OF ACTS OF UNLAWFUL INTERFERENCE WITH CIVIL AVIATION

Whereas the protection of civil aviation from acts of unlawful interference has been enhanced by the Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963), by the Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague, 1970), by the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 1971), as well as by the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Done at Montreal on 23 September 1971 (Montreal, 1988) and by bilateral agreements for the suppression of such acts;

Whereas terrorist acts aimed at the destruction of aircraft and the use of plastic explosives for such acts led to the need for ICAO to intensify, in accordance with United Nations Security Council Resolution 635 of 14 June 1989, its work on devising an international regime for the marking of plastic explosives for the purpose of detection; and

Whereas for the purpose of preventing such acts, the International Conference on Air Law adopted on 1 March 1991 a Convention on the Marking of Plastic Explosives for the Purpose of Detection;

The Assembly:

1. Calls upon Contracting States which have not yet done so to become parties to the Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963), to the Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague, 1970), to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 1971), and to the 1988 Supplementary Protocol to the Montreal Convention;

2. Urges all States to become parties as soon as possible to the Convention on the Marking of Plastic Explosives for the Purpose of Detection which was signed at Montreal on 1 March 1991;

3. Invites States not yet parties to the 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection to give effect, even before ratification, acceptance, approval or accession, to the principles of that instrument and calls upon States which manufacture plastic explosives to implement the marking of such explosives as soon as possible;

4. Directs the Secretary General to continue to remind States of the importance of becoming parties to the Tokyo, The Hague and Montreal Conventions and to the 1988 Supplementary Protocol to the Montreal Convention and the Convention on the Marking of Plastic Explosives for the Purpose of Detection and to provide assistance requested by States encountering any difficulties in becoming parties to these instruments;

5. Condemns any failure by a Contracting State to fulfil its obligations to return without delay an aircraft which is being illegally detained or to extradite or submit to competent authorities without delay the case of any person accused of an act of unlawful interference with civil aviation;

6. Calls upon Contracting States to intensify their efforts to suppress acts of unlawful seizure of aircraft or other unlawful acts against the security of civil aviation by concluding appropriate agreements for the suppression of such acts which would provide for extradition or submission of the case to competent authorities for the purpose of prosecution of those who commit them; and

7. Calls upon Contracting States to continue to assist in the investigation of such acts and in the apprehension and prosecution of those responsible.

APPENDIX C

ACTION BY STATES

a) Enactment of national legislation and bilateral agreements

Whereas deterrence of acts of unlawful interference with civil aviation can be greatly facilitated through the enactment by Contracting States of national criminal laws providing severe penalties for such acts;

The Assembly:

1. Calls upon Contracting States to give special attention to the adoption of adequate measures against persons committing acts of unlawful seizure of aircraft or other acts of unlawful interference against civil aviation, and in particular to include in their legislation rules for the severe punishment of such persons;

2. Calls upon Contracting States to take adequate measures relating to the extradition or prosecution of persons committing acts of unlawful seizure of aircraft or other acts of unlawful interference against civil aviation by adopting appropriate provisions in law or treaty for that purpose or by strengthening existing arrangements for the extradition of persons making criminal attacks on international civil aviation.

b) Information to be submitted to the Council

The Assembly:

1. Reminds States parties of their obligations under Article 11 of The Hague Convention and Article 13 of the Montreal Convention, following occurrences of unlawful interference, to forward all relevant information required by those Articles to the Council;

2. Directs the Secretary General, within a reasonable time from the date of a specific occurrence of unlawful interference, to ask that States parties concerned forward to the Council in accordance with their national law all relevant information required by those Articles concerning such occurrence, including particularly information relating to extradition or other legal proceedings.

APPENDIX D

TECHNICAL SECURITY MEASURES

Whereas the safety of the peoples of the world who benefit from international civil aviation requires continued vigilance and development and implementation of positive safeguarding action by the Organization and its Contracting States;

Whereas a clear need exists for the strengthening of security to be applied to all phases and processes associated with the international carriage of persons, their cabin and checked baggage, cargo, mail, courier and express parcels;

Whereas the responsibility for ensuring that security measures are applied by government agencies, airport authorities and aircraft operators rests with the Contracting States;

Whereas the safety of persons and property at airports serving international civil aviation requires continued vigilance, development and implementation of positive safeguarding actions by the International Civil Aviation Organization and all States to prevent and suppress unlawful acts of violence at such airports; and

Whereas the implementation of the security measures advocated by ICAO is an effective means of preventing acts of unlawful interference with civil aviation;

The Assembly:

1. Urges the Council to continue to attach high priority to the adoption of effective measures for the prevention of acts of unlawful interference and to keep up to date the provisions of Annex 17 to the Chicago Convention to this end;

2. Urges the Council to study, as a high priority, issues relating to the security control of transit passengers and the detection of explosive devices;

3. Requests the Council to complete, as a matter of high priority, studies into methods of detecting explosives or explosive materials, especially into the marking of those explosives of concern, other than plastic explosives, whose detection would be aided by the use of marking agents, with a view to the evolution, if needed, of an appropriate comprehensive legal regime;

4. Urges all States on an individual basis and in co-operation with other States to take all possible measures for the suppression of acts of violence at airports serving international civil aviation including such preventive measures as are required or recommended under Annex 17 to the Convention on International Civil Aviation;

5. Calls upon Contracting States to intensify their efforts for the implementation of existing Standards, Recommended Practices, and Procedures relating to aviation security, to monitor such implementation, and to take all necessary steps to prevent acts of unlawful interference against international civil aviation;

6. Further calls on Contracting States, while respecting their sovereignty, to substantially enhance co-operation and co-ordination between them in order to improve such implementation;

7. Invites Contracting States to exchange, as they consider appropriate, information through ICAO, or directly where desirable, related to increasing physical security controls in the plans and designs of existing and new airports, the design of aircraft to make the placement of explosives more difficult and research and development on weapons and explosive detection, as well as to undertake joint efforts in the development and refinement of promising concepts in detection of weapons and explosives;

8. Urges member States to expedite research and development on detection of explosives and security equipment, to continue to encourage research and development into improved and economic means of detecting all the marking agents specified in the Convention on the Marking of Plastic Explosives for the Purpose of Detection, and to continue to exchange such information;

9. Requests the Council to ensure, with respect to the technical aspects of aviation security, that:

a) the subject of aviation security continues to be given adequate attention, with priority commensurate with the current threat to the security of international civil aviation, particularly by keeping up to date and developing, as necessary, appropriate Standards, Recommended Practices, Procedures and guidance material;

b) when considered necessary, the agenda of ICAO meetings include items dealing with aviation security which are relevant to the subject of such meetings;

c) regional aviation security seminars are convened by ICAO after consultation with or at the request of States concerned; and

d) the ICAO Training Programme for Aviation Security comprising Standardized Training Packages (STPs) for use by States continues to be developed;

10. Urges Contracting States to ensure that it is possible for facilities to be made available at their airports for the inspection/screening of passengers and their cabin and checked baggage on international air transport services;

11. Urges Contracting States which have not already done so to implement the Standards, Recommended Practices and Procedures on aviation security measures, and to give appropriate attention to the guidance material contained in the ICAO Security Manual; and

12. Directs the Secretary General to continue to update and amend at appropriate intervals the Security Manual designed to assist Contracting States in implementing the specifications and procedures related to civil aviation security.

APPENDIX E

ACTION OF STATES WITH RESPECT TO UNLAWFUL SEIZURE OF AIRCRAFT IN PROGRESS

Whereas acts of unlawful seizure continue seriously to compromise the safety, regularity and efficiency of international civil aviation;

Whereas the Council has adopted Standards and Recommended Practices on aviation security in accordance with ICAO policy;

Whereas the safety of flights of aircraft subjected to an act of unlawful seizure may be further jeopardized by the denial of navigational aids and air traffic services, the blocking of runways and taxiways and the closure of airports; and

Whereas the safety of passengers and crew of an aircraft subjected to an act of unlawful seizure may also be further jeopardized if the aircraft is permitted to take off while still under seizure;

The Assembly:

1. Recalls in this regard the relevant provisions of the Chicago, Tokyo and The Hague Conventions;

2. Recommends that States take into account the above considerations in the development of their policies and contingency plans for dealing with acts of unlawful seizure;

3. Urges each Contracting State to provide, as it may find practicable, such measures of assistance to an aircraft subjected to an act of unlawful seizure, including the provision of navigational aids, air traffic services and permission to land, as may be necessitated by the circumstances;

4. Urges each Contracting State to take measures, as it may find practicable, to ensure that an aircraft subjected to an act of unlawful seizure which has landed in its territory is detained on the ground unless its departure is necessitated by the overriding duty to protect human life; and

5. Recognizes the importance of consultations, wherever practicable, between the State where an aircraft subjected to an act of unlawful seizure has landed and the State of the operator of that aircraft.

APPENDIX F

ASSISTANCE TO STATES IN THE IMPLEMENTATION OF TECHNICAL MEASURES FOR THE PROTECTION OF INTERNATIONAL CIVIL AVIATION

Whereas the implementation of technical measures for prevention of acts of unlawful interference with international civil aviation requires financial investment and training of personnel;

Whereas, notwithstanding assistance given, some countries, in particular developing countries, still face difficulties in fully implementing preventive measures including the means of detecting explosives because of insufficient financial, technical and material resources; and

Whereas aviation security is vital to all Contracting States for the proper operation of their airlines all around the world;

The Assembly:

1. Invites developed countries to give assistance to the countries which are not able to implement programmes of suggested technical measures for the protection of aircraft on the ground and in the processing of passengers, their cabin and checked baggage, cargo, mail, courier and express parcels;

2. Invites Contracting States to bear in mind the possibility offered by the Mechanism for financial, technical and material assistance to States with regard to aviation security, the United Nations Development Programme and the Technical Co-operation among Developing Countries to meet their technical assistance requirements arising from the need to protect international civil aviation;

3. Urges all States that have the means to do so to increase technical, financial and material assistance to countries in need of such assistance to improve aviation security through bilateral and multilateral effort, in particular, through the ICAO Mechanism for financial, technical and material assistance to States with regard to aviation security; and

4. Urges the international community to consider increasing technical, financial and material assistance to States in need of such assistance in order to be able to benefit from the achievement of the aims and objectives of the Convention on the Marking of Plastic Explosives, in particular through the technical co-operation programmes of ICAO.

APPENDIX G

ACTION BY THE COUNCIL WITH RESPECT TO MULTILATERAL AND BILATERAL CO-OPERATION IN DIFFERENT REGIONS OF THE WORLD

Whereas the rights and obligations of States under the international conventions on aviation security and under the Standards and Recommended Practices adopted by the Council of ICAO on aviation security could be complemented and reinforced in bilateral co-operation between States;

Whereas the bilateral agreements on air services represent the main legal basis for international carriage of passengers, baggage, cargo and mail;

Whereas provisions on aviation security should form an integral part of the bilateral agreements on air services; and

Whereas Annex 17 to the Convention of International Civil Aviation contains a recommendation that each Contracting State should include in its bilateral agreements on air transport a clause related to aviation security;

The Assembly:

1. Notes with satisfaction the strong support of States for the model clause on aviation security, elaborated by the Council and attached to the Council Resolution of 25 June 1986;

2. Notes the wide acceptance by States of the model agreement on aviation security for bilateral or regional co-operation adopted by the Council on 30 June 1989;

3. Urges all Contracting States to insert into their bilateral agreements on air services a clause on aviation security, taking into account the model clause adopted by the Council on 25 June 1986;

4. Recommends that Contracting States take into account the model agreement adopted by the Council on 30 June 1989; and

5. Recommends that the Council continue to:

—gather the results of States' experience in co-operation to suppress acts of unlawful interference with international civil aviation;

—analyse the existing situation in the fight against acts of unlawful interference with international civil aviation in different regions of the world; and

—prepare recommendations for strengthening measures to suppress such acts of unlawful interference.

APPENDIX H

CO-OPERATION WITH INTERNATIONAL ORGANIZATIONS IN THE FIELD OF AVIATION SECURITY

The Assembly:

1. Invites the International Criminal Police Organization (ICPO/INTERPOL), the Universal Postal Union (UPU), the International Air Transport Association (IATA), Airports Council International (ACI), and the International Federation of Air Line Pilots' Associations (IFALPA) to continue their co-operation with ICAO, to the maximum extent possible, to safeguard international civil aviation against acts of unlawful interference.

5. United Nations Documents

a. General Assembly: Measures to Eliminate International Terrorism

(1) A/RES/53/108, December 8, 1998

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

Measures To Eliminate International Terrorism

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling all its relevant resolutions, including resolution 49/60 of 9 December 1994, by which it adopted the Declaration on Measures to Eliminate International Terrorism, and resolutions 50/53 of 11 December 1995, 51/210 of 17 December 1996 and 52/165 of 15 December 1997,

Recalling also the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,[1]

Deeply disturbed by the persistence of terrorist acts, which have been carried out worldwide,

Stressing the need to strengthen further international cooperation between States and between international organizations and agencies, regional organizations and arrangements and the United Nations in order to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed,

Mindful of the need to enhance the role of the United Nations and the relevant specialized agencies in combating international terrorism, and of the proposals of the Secretary-General to enhance the role of the Organization in this respect,

Recalling that in the Declaration on Measures to Eliminate International Terrorism, contained in the annex to resolution 49/60, the General Assembly encouraged States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there was a comprehensive legal framework covering all aspects of the matter,

Bearing in mind the possibility of considering in the near future the elaboration of a comprehensive convention on international terrorism,

Bearing in mind also that the Twelfth Conference of Heads of State or Government of Non-Aligned Countries, held at Durban, South Africa, from 29 August to 3 September 1998, reaffirmed its collective position on terrorism and as a recent initiative called for

[1] See resolution 50/6.

an international summit conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations,[2]

Recognizing the urgent need to enhance international cooperation to prevent terrorist financing and to develop an appropriate legal instrument,

Having examined the report of the Secretary-General,[3]

1. *Strongly condemns* all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomsoever committed;

2. *Reiterates* that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them;

3. *Reiterates its call* upon all States to adopt further measures in accordance with the relevant provisions of international law, including international standards of human rights, to prevent terrorism and to strengthen international cooperation in combating terrorism and, to that end, to consider in particular the implementation of the measures set out in paragraphs 3 (a) to (f) of its resolution 51/210;

4. *Also reiterates its call* upon all States, with the aim of enhancing the efficient implementation of relevant legal instruments, to intensify, as and where appropriate, the exchange of information on facts related to terrorism and, in so doing, to avoid the dissemination of inaccurate or unverified information;

5. *Reiterates its call* upon States to refrain from financing, encouraging, providing training for or otherwise supporting terrorist activities;

6. *Reaffirms* that international cooperation as well as actions by States to combat terrorism should be conducted in conformity with the principles of the Charter of the United Nations, international law and relevant international conventions;

7. *Urges* all States that have not yet done so to consider, as a matter of priority, becoming parties to relevant conventions and protocols as referred to in paragraph 6 of resolution 51/210, as well as the International Convention for the Suppression of Terrorist Bombings,[4] and calls upon all States to enact, as appropriate, domestic legislation necessary to implement the provisions of those conventions and protocols, to ensure that the jurisdiction of their courts enables them to bring t o trial the perpetrators of terrorist acts, and to cooperate with and provide support and assistance to other States and relevant international and regional organizations to that end;

8. *Reaffirms* the Declaration on Measures to Eliminate International Terrorism contained in the annex to resolution 49/60 and the Declaration to Supplement the 1994 Declaration on Measures

[2] See A/53/667-S/1998/1071.
[3] A/53/314 and Corr.2 and Add.1.
[4] Resolution 52/164, annex.

to Eliminate International Terrorism contained in the annex to resolution 51/210, and calls upon all States to implement them;

9. *Takes note* of the measures aimed at strengthening the capacity of the Centre for International Crime Prevention of the Secretariat to enhance international cooperation and improve the response of Governments to terrorism in all its forms and manifestations;

10. *Decides* to address at its fifty-fourth session the question of convening a high-level conference in 2000 under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations;

11. *Decides also* that the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 shall continue to elaborate a draft international convention for the suppression of acts of nuclear terrorism with a view to completing the instrument, shall elaborate a draft international convention for the suppression of terrorist financing to supplement related existing international instruments, and subsequently shall address means of further developing a comprehensive le gal framework of conventions dealing with international terrorism, including considering, on a priority basis, the elaboration of a comprehensive convention on international terrorism;

12. *Decides further* that the Ad Hoc Committee shall meet from 15 to 26 March 1999, devoting appropriate time to the consideration of the outstanding issues relating to the elaboration of a draft international convention for the suppression of acts of nuclear terrorism, and that it shall initiate the elaboration of a draft international convention for the suppression of terrorist financing, and recommends that the work continue during the fifty-fourth session of the General Assembly from 27 September to 8 October 1999, within the framework of a working group of the Sixth Committee, and that the Ad Hoc Committee be convened in 2000 to continue its work as referred to in paragraph 11 above;

13. *Requests* the Secretary-General to continue to provide the Ad Hoc Committee with the necessary facilities for the performance of its work;

14. *Requests* the Ad Hoc Committee to report to the General Assembly at its fifty-third session in the event of the completion of the draft convention for the suppression of acts of nuclear terrorism;

15. *Also requests* the Ad Hoc Committee to report to the General Assembly at its fifty-fourth session on progress made in the implementation of its mandate;

16. *Decides* to include in the provisional agenda of its fifty-fourth session the item entitled "Measures to eliminate international terrorism".

83rd plenary meeting
8 December 1998

(2) A/53/314

REPORT OF THE SECRETARY-GENERAL

MEASURES TO ELIMINATE INTERNATIONAL TERRORISM

STATUS OF INTERNATIONAL CONVENTIONS PERTAINING TO INTERNATIONAL TERRORISM

EXCERPTS

United Nations A/53/314

General Assembly

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Russian/Spanish

Fifty-third session
Item 157 of the provisional agenda*
Measures to eliminate international terrorism

Measures to eliminate international terrorism

Report of the Secretary-General

EXCERPTS

III. International legal instruments related to the prevention and suppression of international terrorism

A. Status of international conventions pertaining to international terrorism

38. Currently, there are 14 global or regional treaties pertaining to the subject of international terrorism. Each instrument listed below is represented by the letter shown on the left, which is featured in the tables that follow to reflect the status of that instrument:

A Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963 (entered into force on 4 December 1969): status as at 21 May 1998;

B Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970 (entered into force on 14 October 1971): status as at 22 May 1998;

C Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971 (entered into force on 26 January 1973): status as at 22 May 1998;

D Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973 (entered into force on 20 February 1977) : status as at 30 June 1998;

E International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979 (entered into force on 3 June 1983): status as at 30 June 1998;

F Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980 (entered into force on 8 February 1987): status as at 30 June 1998;

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G Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988 (entered into force on 6 August 1989): status as at 22 May 1998;

H Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988 (entered into force on 1 March 1992): status as at 23 February 1998;

I Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988 (entered into force on 1 March 1992): status as at 23 February 1998;

J Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991(shall enter into force on 21 June 1998): status as at 5 June 1998;

K International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997 (open for signature on 12 January 1998 until 31 December 1999): status as at 30 June 1998;

L Arab Convention on the Suppression of Terrorism, signed at a meeting held at the General Secretariat of the League of Arab States in Cairo from 22 to 24 April 1998: status as at 24 April 1998;

M European Convention on the Suppression of Terrorism, concluded at Strasbourg on 27 January 1977 (entered into force on 4 August 1978): status as at 30 January 1998;

N OAS Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance, concluded at Washington, D.C., on 2 February 1971 (entered into force on 16 October 1973): status as at 30 June 1998;

O SAARC Regional Convention on Suppression of Terrorism, signed at Kathmandu on 4 November 1987 (entered into force on 22 August 1988): all seven member States of SAARC (Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka) are parties to the Convention.

Table 1
Total participation in international conventions pertaining to international terrorism

Signature														
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
41	77	60	26	40	45[a]	69	41	39	51	24	22[b]	30	17	--
Ratification, accession or succession														
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
165	166	166	100	83	61[a]	79	34	31	37	--	--	29	12	7

a Includes the European Atomic Energy Community, which is not listed in table 2.
b Includes the Palestinian Authority.

Table 2

Status of participation in international conventions pertaining to international terrorism

	Signature															*Ratification, accession or succession*														
State	*A*	*B*	*C*	*D*	*E*	*F*	*G*	*H*	*I*	*J*	*K*	*L*	*M*	*N*	*O*	*A*	*B*	*C*	*D*	*E*	*F*	*G*	*H*	*I*	*J*	*K*	*L*	*M*	*N*	*O*
Afghanistan		B								J						A	B	C												
Albania																A	B	C												
Algeria												L				A	B	C		E		G	H		J					
Andorra																														
Angola																A	B	C												
Antigua and Barbuda																A	B	C	D	E	F									
Argentina		B	C			F	G	H	I	J						A	B	C	D	E	F	G	H							
Armenia																			D		F									
Australia		B	C	D		F										A	B	C	D	E	F	G	H	I						
Austria		B	C		E	F	G	H		J	K		M			A	B	C	D	E	F	G	H	I				M		
Azerbaijan																														
Bahamas								H	I							A	B	C	D	E										
Bahrain												L				A	B	C				G			J					
Bangladesh																A	B	C												O
Barbados	A	B	C													A	B	C	D	E			H	I						
Belarus		B	C	D			G	H	I	J						A	B	C	D	E	F	G								
Belgium	A	B	C		E	F	G	H	I	J	K			M		A	B	C			F							M		
Belize										J						A														
Benin		B															B													
Bhutan																A	B	C	D	E										O
Bolivia					E					J						A	B	C												
Bosnia and Herzegovina																A	B	C	D	E	F	G								
Botswana			C													A	B	C												
Brazil	A	B	C			F	G	H	I	J						A	B	C			F	G								
Brunei Darussalam								H	I							A	B	C	D	E										
Bulgaria		B	C	D		F	G	H	I	J			M			A	B	C	D	E	F	G								
Burkina Faso	A															A	B	C												
Burundi		B	C								K					A			D											

State	Signature															Ratification, accession or succession														
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
Cambodia		B														A	B	C				G								
Cameroon							G									A	B	C	D	E					J					
Canada	A	B	C	D	E	F	G	H	I	J	K					A	B	C	D	E	F	G	H	I	J					
Cape Verde																A	B	C												
Central African Republic																A	B	C				G								
Chad		B	C													A	B	C												
Chile		B			E		G	H	I	J				N		A	B	C	D	E	F	G	H	I						
China							G	H	I							A	B	C	D	E	F		H	I						
Colombia	A	B								J				N		A	B	C	D										N	
Comoros												L				A	B	C												
Congo (Republic of the)	A		C				G									A	B	C												
Cook Islands																														
Costa Rica		B	C				G	H	I	J	K			N		A	B	C	D										N	
Côte d'Ivoire							G			J						A	B	C		E										
Croatia																A	B	C	D		F	G								
Cuba																			D		F									
Cyprus			C								K		M			A	B	C	D	E								M		
Czech Republic													M			A	B	C	D	E	F	G			J			M		
Democratic People's Republic of Korea							G									A	B	C	D											
Democratic Republic of the Congo					E		G									A	B	C	D											
Denmark	A	B	C	D		F	G	H	I	J			M			A	B	C	D	E	F	G	H	I				M		
Djibouti												L				A	B	C												
Dominica																				E										
Dominican Republic		B	C		E	F								N		A	B	C	D										N	
Ecuador	A	B		D		F		H	I	J				N		A	B	C	D	E	F				J					
Egypt			C		E		G	H	I	J		L				A	B	C	D	E			H	I	J					
El Salvador		B			E									N		A	B	C	D	E		G							N	
Equatorial Guinea		B														A	B	C												
Eritrea																									J					
Estonia													M			A	B	C	D		F	G			J			M		

State	Signature															Ratification, accession or succession														
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
Ethiopia		B	C				G									A	B	C												
Fiji		B	C													A	B	C				G								
Finland	A	B		D	E	F	G	H		J	K		M			A	B	C	D	E	F							M		
France	A	B				F	G	H	I	J	K		M			A	B	C			F	G	H	I	J			M		
Gabon		B	C		E		G			J						A	B	C	D											
Gambia		B														A	B	C					H							
Georgia																A	B	C												
Germany	A	B	C	D	E	F	G			J	K		M			A	B	C	D	E	F	G	H	I				M		
Ghana		B					G			J						A	B	C	D	E		G								
Greece	A	B	C		E	F	G	H	I	J	K		M			A	B	C	D	E	F	G	H	I	J	K				
Grenada																A	B	C		E										
Guatemala	A	B	C	D	E	F								N		A	B	C	D	E	F	G			J				N	
Guinea										J						A	B	C												
Guinea-Bissau										J							B	C												
Guyana																A	B	C												
Haiti			C		E	F										A	B	C	D	E										
Holy See	A																													
Honduras					E					J				N		A	B	C		E										
Hungary		B	C	D		F	G	H	I	J						A	B	C	D	E	F	G	H	I	J	K				
Iceland				D			G						M			A	B	C	D	E		G						M		
India		B	C													A	B	C	D	E		G								O
Indonesia	A	B				F	G									A	B	C			F									
Iran (Islamic Republic of)		B														A	B	C	D											
Iraq		B			E			H	I			L				A	B	C	D			G								
Ireland	A					F	G				K		M			A	B	C			F	G						M		
Israel	A	B	C		E	F	G	H	I	J						A	B	C	D			G								
Italy	A	B	C	D	E	F	G	H	I		K		M			A	B	C	D	E	F	G	H	I				M		
Jamaica		B	C		E		G							N		A	B	C	D											
Japan	A	B			E						K					A	B	C	D	E	F	G			J					
Jordan		B	C				G	H	I	J		L				A	B	C	D	E		G			J					
Kazakhstan																A	B	C	D	E		G			J					

State	Signature															Ratification, accession or succession													
	A	*B*	*C*	*D*	*E*	*F*	*G*	*H*	*I*	*J*	*K*	*L*	*M*	*N*	*O*	*A*	*B*	*C*	*D*	*E*	*F*	*G*	*H*	*I*	*J*	*K*	*L*	*M*	*N*	*O*
Kenya																A	B	C		E		G								
Kiribati																														
Kuwait		B					G			J		L				A	B	C	D	E		G			J					
Kyrgyzstan																														
Lao People's Democratic Republic		B	C													A	B	C												
Latvia																A			D											
Lebanon							G			J		L				A	B	C	D	E	F	G	H	I	J					
Lesotho					E											A	B	C		E										
Liberia	A				E		G	H	I								B	C	D				H	I						
Libyan Arab Jamahiriya												L				A	B	C				G								
Liechtenstein		B				F							M						D	E	F	G						M		
Lithuania											K		M			A	B	C			F	G			J			M		
Luxembourg		B	C		E	F	G				K		M			A	B	C		E	F							M		
Madagascar	A									J						A	B	C				G								
Malawi							G									A	B	C	D	E										
Malaysia		B					G									A	B	C												
Maldives																A	B	C	D											O
Mali										J						A	B	C		E		G								
Malta													M			A	B	C				G			J			M		
Marshall Islands							G									A	B	C				G	H	I						
Mauritania												L				A	B	C	D	E										
Mauritius					E		G			J						A	B	C		E		G								
Mexico	A	B	C				G			J				N		A	B	C	D	E	F	G	H	I	J				N	
Micronesia (Federated States of)																														
Monaco																A	B	C			F	G			J					
Mongolia		B	C	D		F										A	B	C	D	E	F									
Morocco						F	G	H	I			L				A	B	C												
Mozambique																														
Myanmar																A	B	C				G								
Namibia																														
Nauru																A	B	C												

State	Signature															Ratification, accession or succession														
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
Nepal																A	B	C	D	E										O
Netherlands	A	B	C		E	F	G	H	I	J	K		M			A	B	C	D	E	F	G	H	I	J			M		
New Zealand		B	C		E		G	H	I							A	B	C	D	E										
Nicaragua			C	D						J				N		A	B	C	D										N	
Niger	A	B	C			F	G									A	B	C	D											
Nigeria	A							H	I							A	B	C												
Niue																														
Norway	A	B		D	E	F	G	H	I	J			M			A	B	C	D	E	F	G	H	I	J			M		
Oman												L				A	B	C	D	E		G	H	I						
Pakistan	A	B					G			J						A	B	C	D											O
Palau																A	B	C				G								
Panama	A	B	C		E	F								N		A	B	C	D	E		G			J				N	
Papua New Guinea																A	B	C												
Paraguay		B	C	D		F										A	B	C	D		F									
Peru							G			J				N		A	B	C	D		F	G			J				N	
Philippines	A	B	C		E	F	G	H	I							A	B	C	D	E	F									
Poland		B	C	D		F	G	H	I				M			A	B	C	D		F		H	I				M		
Portugal	A	B	C		E	F	G						M			A	B	C	D	E	F		H	I				M		
Qatar												L				A	B	C	D											
Republic of Korea	A					F	G			J						A	B	C	D	E	F	G								
Republic of Moldova																A	B	C	D		F	G			J					
Romania		B	C	D		F	G				K		M			A	B	C	D	E	F		H	I				M		
Russian Federation		B	C	D		F	G	H	I	J	K					A	B	C	D	E	F	G								
Rwanda		B	C	D												A	B	C	D											
Saint Kitts and Nevis																				E										
Saint Lucia																A	B	C				G								
Saint Vincent and the Grenadines							G									A	B	C				G								
Samoa																														
San Marino																														
Sao Tome and Principe																														
Saudi Arabia	A						G	H	I			L				A	B	C		E		G			J					

State	Signature															Ratification, accession or succession													
	A	*B*	*C*	*D*	*E*	*F*	*G*	*H*	*I*	*J*	*K*	*L*	*M*	*N*	*O*	*A*	*B*	*C*	*D*	*E*	*F*	*G*	*H*	*I*	*J*	*K*	*L*	*M*	*N*	*O*
Senegal	A	B	C		E		G			J						A	B	C		E										
Seychelles								H	I							A	B	C	D				H	I						
Sierra Leone		B														A	B	C												
Singapore		B	C													A	B	C				G								
Slovakia													M			A	B	C	D	E	F	G			J			M		
Slovenia																A	B	C	D	E	F	G								
Solomon Islands																A		C												
Somalia												L																		
South Africa		B	C			F										A	B	C												
Spain	A	B	C			F	G	H	I	J	K		M			A	B	C	D	E	F	G	H	I	J			M		
Sri Lanka							G				K					A	B	C	D			G								O
Sudan												L					B	C	D	E										
Suriname					E											A	B	C		E										
Swaziland																														
Sweden	A	B		D	E	F	G	H	I	J	K		M			A	B	C	D	E	F	G	H	I				M		
Switzerland	A	B	C		E	F	G	H	I	J			M			A	B	C	D	E	F	G	H	I	J			M		
Syrian Arab Republic												L				A	B	C	D											
Tajikistan																A	B	C			F	G								
Thailand		B														A	B	C				G								
The former Yugoslav Republic of Macedonia																A	B	C	D	E	F	G								
Togo					E		G			J						A	B	C	D	E		G								
Tonga																	B	C												
Trinidad and Tobago		B	C											N		A	B	C	D	E			H	I						
Tunisia				D								L				A	B	C	D	E	F	G			J					
Turkey		B	C			F	G	H	I	J			M			A	B	C	D	E	F	G			J			M		
Turkmenistan																														
Tuvalu																														
Uganda					E											A	B	C				G								
Ukraine		B	C	D			G	H	I	J						A	B	C	D	E	F		H	I						
United Arab Emirates							G					L				A	B	C				G			J					

State	Signature														Ratification, accession or succession												
	A	*B*	*C*	*D*	*E*	*F*	*G*	*H*	*I*	*J*	*K*	*L*	*M*	*N*	*O*	*A*	*B*	*C*	*D*	*E*	*F*	*G*	*H*	*I*	*J*	*K*	*L*	*M*	*N*	*O*
United Kingdom of Great Britain and Northern Ireland	A	B	C	D	E	F	G	H	I	J	K		M			A	B	C	D	E	F	G	H	I	J			M		
United Republic of Tanzania																A	B	C												
United States of America	A	B	C	D	E	F	G	H	I	J	K			N		A	B	C	D	E	F	G	H	I	J				N	
Uruguay														N		A	B	C	D										N	
Uzbekistan											K					A	B	C	D	E	F	G								
Vanuatu																A	B	C												
Venezuela	A	B	C				G							N		A	B	C		E									N	
Viet Nam																A	B	C												
Yemen			C									L				A	B	C	D											
Yugoslavia	A	B	C	D	E	F	G									A	B	C	D	E	F	G								
Zambia																A	B	C							J					
Zimbabwe																A	B	C												

(3) A/RES/52/165, December 15, 1997

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

Measures to Eliminate International Terrorism

The General Assembly,

Guided by the purposes and principles of the Charter of the United

Nations,

Recalling all its relevant resolutions, including resolution 49/60 of 9 December 1994, by which it adopted the Declaration on Measures to Eliminate International Terrorism, and resolutions 50/53 of 11 December 1995 and 51/210 of 17 December 1996,

Recalling also the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations, [1]

Deeply disturbed by the persistence of terrorist acts, which have taken place worldwide,

Stressing the need further to strengthen international cooperation between States and between international organizations and agencies, regional organizations and arrangements and the United Nations in order to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed,

Mindful of the need to enhance the role of the United Nations and the relevant specialized agencies in combating international terrorism, and of the proposals of the Secretary-General to enhance the role of the Organization in this respect,

Recalling that in the Declaration on Measures to Eliminate International Terrorism contained in the annex to resolution 49/60 the General Assembly encouraged States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there was a comprehensive legal framework covering all aspects of the matter,

Bearing in mind the possibility of considering in the near future the elaboration of a comprehensive convention on international terrorism,

Having examined the report of the Secretary-General, [2]

1. Strongly condemns all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomsoever committed;

2. Reiterates that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical,

[1] See resolution 50/6.

[2] A/52/304 and Corr.1 and Add.1.

ideological, racial, ethnic, religious or other nature that may be invoked to justify them;

3. Reiterates its call upon all States to adopt further measures in accordance with the relevant provisions of international law, including international standards of human rights, to prevent terrorism and to strengthen international cooperation in combating terrorism and, to that end, to consider, in particular, the implementation of the measures set out in paragraphs 3 (a) to (f) of its resolution 51/210;

4. Also reiterates its call upon all States, with the aim of enhancing the efficient implementation of relevant legal instruments, to intensify, as and where appropriate, the exchange of information on facts related to terrorism and, in so doing, to avoid the dissemination of inaccurate or unverified information;

5. Further reiterates its call upon States to refrain from financing, encouraging, providing training for or otherwise supporting terrorist activities;

6. Urges all States that have not yet done so to consider, as a matter of priority, becoming parties to relevant conventions and protocols as referred to in paragraph 6 of resolution 51/210, and calls upon all States to enact, as appropriate, domestic legislation necessary to implement the provisions of those conventions and protocols, to ensure that the jurisdiction of their courts enables them to bring to trial the perpetrators of terrorist acts and to cooperate with and provide support and assistance to other States and relevant international and regional organizations to that end;

7. Reaffirms the Declaration on Measures to Eliminate International Terrorism contained in the annex to resolution 49/60 and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism contained in the annex to resolution 51/210, and calls upon all States to implement them;

8. Reaffirms also the mandate of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996;

9. Decides that the Ad Hoc Committee shall meet from 16 to 27 February 1998 to continue its work in accordance with the mandate provided in paragraph 9 of resolution 51/210, and recommends that the work continue during the fifty-third session of the General Assembly from 28 September to 9 October 1998 within the framework of a working group of the Sixth Committee;

10. Requests the Secretary-General to invite the International Atomic Energy Agency to assist the Ad Hoc Committee in its deliberations;

11. Also requests the Secretary-General to continue to provide the Ad Hoc Committee with the necessary facilities for the performance of its work;

12. Requests the Ad Hoc Committee to report to the General Assembly at its fifty-third session on progress made in accomplishing its mandate;

13. Recommends that the Ad Hoc Committee be convened in 1999 to continue its work as referred to in paragraph 9 of resolution 51/210;

14. Decides to include in the provisional agenda of its fifty-third session the item entitled "Measures to eliminate international terrorism".

72nd plenary meeting
15 December 1997

(4) A/RES/51/210, December 17, 1996

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

Measures to Eliminate International Terrorism

The General Assembly,

Recalling its resolution 49/60 of 9 December 1994, by which it adopted the Declaration on Measures to Eliminate International Terrorism, and its resolution 50/53 of 11 December 1995,

Recalling also the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations, [1]

Guided by the purposes and principles of the Charter of the United Nations,

Deeply disturbed by the persistence of terrorist acts, which have taken place worldwide,

Stressing the need further to strengthen international cooperation between States and between international organizations and agencies, regional organizations and arrangements and the United Nations in order to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed,

Mindful of the need to enhance the role of the United Nations and the relevant specialized agencies in combating international terrorism,

Noting, in this context, all regional and international efforts to combat international terrorism, including those of the Organization of African Unity, the Organization of American States, the Organization of the Islamic Conference, the South Asian Association for Regional Cooperation, the European Union, the Council of Europe, the Movement of Non-Aligned Countries and the countries of the group of seven major industrialized countries and the Russian Federation,

Taking note of the report of the Director-General of the United Nations Educational, Scientific and Cultural Organization on educational activities under the project entitled "Towards a culture of peace", [2]

Recalling that in the Declaration on Measures to Eliminate International Terrorism the General Assembly encouraged States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there was a comprehensive legal framework covering all aspects of the matter,

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[1] See resolution 50/6.

[2] A/51/395, annex.

Bearing in mind the possibility of considering in the future the elaboration of a comprehensive convention on international terrorism,

Noting that terrorist attacks by means of bombs, explosives or other incendiary or lethal devices have become increasingly widespread, and stressing the need to supplement the existing legal instruments in order to address specifically the problem of terrorist attacks carried out by such means,

Recognizing the need to enhance international cooperation to prevent the use of nuclear materials for terrorist purposes and to develop an appropriate legal instrument,

Recognizing also the need to strengthen international cooperation to prevent the use of chemical and biological materials for terrorist purposes,

Convinced of the need to implement effectively and supplement the provisions of the Declaration on Measures to Eliminate International Terrorism,

Having examined the report of the Secretary-General,[3]

I

1. Strongly condemns all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomsoever committed;

2. Reiterates that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them;

3. Calls upon all States to adopt further measures in accordance with the relevant provisions of international law, including international standards of human rights, to prevent terrorism and to strengthen international cooperation in combating terrorism and, to that end, to consider the adoption of measures such as those contained in the official document adopted by the group of seven major industrialized countries and the Russian Federation at the Ministerial Conference on Terrorism, held in Paris on 30 July 1996,[4] and the plan of action adopted by the Inter-American Specialized Conference on Terrorism, held at Lima from 23 to 26 April 1996 under the auspices of the Organization of American States,[5] and in particular calls upon all States:

(a) To recommend that relevant security officials undertake consultations to improve the capability of Governments to prevent, investigate and respond to terrorist attacks on public facilities, in particular means of public transport, and to cooperate with other Governments in this respect;

(b) To accelerate research and development regarding methods of detection of explosives and other harmful substances that can cause death or injury, undertake consultations on the development of standards for marking explosives in order to identify their origin

[3] A/51/336 and Add.1.
[4] A/51/261, annex.
[5] See A/51/336, para. 57.

in post-blast investigations, and promote cooperation and transfer of technology, equipment and related materials, where appropriate;

(c) To note the risk of terrorists using electronic or wire communications systems and networks to carry out criminal acts and the need to find means, consistent with national law, to prevent such criminality and to promote cooperation where appropriate;

(d) To investigate, when sufficient justification exists according to national laws, and acting within their jurisdiction and through appropriate channels of international cooperation, the abuse of organizations, groups or associations, including those with charitable, social or cultural goals, by terrorists who use them as a cover for their own activities;

(e) To develop, if necessary, especially by entering into bilateral and multilateral agreements and arrangements, mutual legal assistance procedures aimed at facilitating and speeding investigations and collecting evidence, as well as cooperation between law enforcement agencies in order to detect and prevent terrorist acts;

(f) To take steps to prevent and counteract, through appropriate domestic measures, the financing of terrorists and terrorist organizations, whether such financing is direct or indirect through organizations which also have or claim to have charitable, social or cultural goals or which are also engaged in unlawful activities such as illicit arms trafficking, drug dealing and racketeering, including the exploitation of persons for purposes of funding terrorist activities, and in particular to consider, where appropriate, adopting regulatory measures to prevent and counteract movements of funds suspected to be intended for terrorist purposes without impeding in any way the freedom of legitimate capital movements and to intensify the exchange of information concerning international movements of such funds;

4. Also calls upon all States, with the aim of enhancing the efficient implementation of relevant legal instruments, to intensify, as and where appropriate, the exchange of information on facts related to terrorism and, in so doing, to avoid the dissemination of inaccurate or unverified information;

5. Reiterates its call upon States to refrain from financing, encouraging, providing training for or otherwise supporting terrorist activities;

6. Urges all States that have not yet done so to consider, as a matter of priority, becoming parties to the Convention on Offences and Certain Other Acts Committed on Board Aircraft,[6] signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft,[7] signed at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation,[8] concluded at Montreal on 23 September 1971, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents,[9] adopted in New York on 14 December 1973, the International Convention against the Taking of Hos-

[6] United Nations, Treaty Series, vol. 704, No. 10106.
[7] Ibid., vol. 860, No. 12325.
[8] Ibid., vol. 974, No. 14118.
[9] Ibid., vol. 1035, No. 15410.

tages,[10] adopted in New York on 17 December 1979, the Convention on the Physical Protection of Nuclear Material,[11] signed at Vienna on 3 March 1980, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation,[12] signed at Montreal on 24 February 1988, the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation,[13] done at Rome on 10 March 1988, the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf,[14] done at Rome on 10 March 1988, and the Convention on the Marking of Plastic Explosives for the Purpose of Detection,[15] done at Montreal on 1 March 1991, and calls upon all States to enact, as appropriate, domestic legislation necessary to implement the provisions of those Conventions and Protocols, to ensure that the jurisdiction of their courts enables them to bring to trial the perpetrators of terrorist acts and to provide support and assistance to other Governments for those purposes;

II

7. Reaffirms the Declaration on Measures to Eliminate International Terrorism contained in the annex to resolution 49/60;

8. Approves the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, the text of which is annexed to the present resolution;

III

9. Decides to establish an Ad Hoc Committee, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, to elaborate an international convention for the suppression of terrorist bombings and, subsequently, an international convention for the suppression of acts of nuclear terrorism, to supplement related existing international instruments, and thereafter to address means of further developing a comprehensive legal framework of conventions dealing with international terrorism;

10. Decides also that the Ad Hoc Committee will meet from 24 February to 7 March 1997 to prepare the text of a draft international convention for the suppression of terrorist bombings, and recommends that work continue during the fifty-second session of the General Assembly from 22 September to 3 October 1997 in the framework of a working group of the Sixth Committee;

11. Requests the Secretary-General to provide the Ad Hoc Committee with the necessary facilities for the performance of its work;

12. Requests the Ad Hoc Committee to report to the General Assembly at its fifty-second session on progress made towards the elaboration of the draft convention;

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[10] Resolution 34/146, annex.
[11] United Nations Treaty Series, vol. 1456, No. 24631.
[12] International Civil Aviation Organization, document DOC 9518.
[13] International Maritime Organization, document SUA/CONF/15/Rev.1.
[14] Ibid., document SUA/CONF/16/Rev.2.
[15] S/22393, annex I; see Official Records of the Security Council, Forty-sixth year, Supplement for January, February and March 1991.

13. Recommends that the Ad Hoc Committee be convened in 1998 to continue its work as referred to in paragraph 9 above;

IV

14. Decides to include in the provisional agenda of its fifty- second session the item entitled "Measures to eliminate international terrorism".

88th plenary meeting
17 December 1996

ANNEX

DECLARATION TO SUPPLEMENT THE 1994 DECLARATION ON MEASURES TO ELIMINATE INTERNATIONAL TERRORISM

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling the Declaration on Measures to Eliminate International Terrorism adopted by the General Assembly by its resolution 49/60 of 9 December 1994,

Recalling also the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations, [1]

Deeply disturbed by the worldwide persistence of acts of international terrorism in all its forms and manifestations, including those in which States are directly or indirectly involved, which endanger or take innocent lives, have a deleterious effect on international relations and may jeopardize the security of States,

Underlining the importance of States developing extradition agreements or arrangements as necessary in order to ensure that those responsible for terrorist acts are brought to justice,

Noting that the Convention relating to the Status of Refugees, [16] done at Geneva on 28 July 1951, does not provide a basis for the protection of perpetrators of terrorist acts, noting also in this context articles 1, 2, 32 and 33 of the Convention, and emphasizing in this regard the need for States parties to ensure the proper application of the Convention,

Stressing the importance of full compliance by States with their obligations under the provisions of the 1951 Convention [16] and the 1967 Protocol relating to the Status of Refugees, [17] including the principle of non-refoulement of refugees to places where their life or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group or political opinion, and affirming that the present Declaration does not affect the protection afforded under the terms of the Convention and Protocol and other provisions of international law,

Recalling article 4 of the Declaration on Territorial Asylum adopted by the General Assembly by its resolution 2312 (XXII) of 14 December 1967,

[16] United Nations, Treaty Series, vol. 189, No. 2545.
[17] Ibid., vol. 606, No. 8791.

Stressing the need further to strengthen international cooperation between States in order to prevent, combat and eliminate terrorism in all its forms and manifestations,

Solemnly declares the following:

1. The States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomsoever committed, including those which jeopardize friendly relations among States and peoples and threaten the territorial integrity and security of States;

2. The States Members of the United Nations reaffirm that acts, methods and practices of terrorism are contrary to the purposes and principles of the United Nations; they declare that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations;

3. The States Members of the United Nations reaffirm that States should take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not participated in terrorist acts, considering in this regard relevant information as to whether the asylum-seeker is subject to investigation for or is charged with or has been convicted of offences connected with terrorism and, after granting refugee status, for the purpose of ensuring that that status is not used for the purpose of preparing or organizing terrorist acts intended to be committed against other States or their citizens;

4. The States Members of the United Nations emphasize that asylum-seekers who are awaiting the processing of their asylum applications may not thereby avoid prosecution for terrorist acts;

5. The States Members of the United Nations reaffirm the importance of ensuring effective cooperation between Member States so that those who have participated in terrorist acts, including their financing, planning or incitement, are brought to justice; they stress their commitment, in conformity with the relevant provisions of international law, including international standards of human rights, to work together to prevent, combat and eliminate terrorism and to take all appropriate steps under their domestic laws either to extradite terrorists or to submit the cases to their competent authorities for the purpose of prosecution;

6. In this context, and while recognizing the sovereign rights of States in extradition matters, States are encouraged, when concluding or applying extradition agreements, not to regard as political offences excluded from the scope of those agreements offences connected with terrorism which endanger or represent a physical threat to the safety and security of persons, whatever the motives which may be invoked to justify them;

7. States are also encouraged, even in the absence of a treaty, to consider facilitating the extradition of persons suspected of having committed terrorist acts, insofar as their national laws permit;

8. The States Members of the United Nations emphasize the importance of taking steps to share expertise and information about terrorists, their movements, their support and their weapons and

to share information regarding the investigation and prosecution of terrorist acts.

(5) A/RES/49/60, December 9, 1994

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

Measures to Eliminate International Terrorism

The General Assembly,

Recalling its resolution 46/51 of 9 December 1991 and its decision 48/411 of 9 December 1993,

Taking note of the report of the Secretary-General, [1]

Having considered in depth the question of measures to eliminate international terrorism,

Convinced that the adoption of the declaration on measures to eliminate international terrorism should contribute to the enhancement of the struggle against international terrorism,

1. Approves the Declaration on Measures to Eliminate International Terrorism, the text of which is annexed to the present resolution;

2. Invites the Secretary-General to inform all States, the Security Council, the International Court of Justice and the relevant specialized agencies, organizations and organisms of the adoption of the Declaration;

3. Urges that every effort be made in order that the Declaration becomes generally known and is observed and implemented in full;

4. Urges States, in accordance with the provisions of the Declaration, to take all appropriate measures at the national and international levels to eliminate terrorism;

5. Invites the Secretary-General to follow up closely the implementation of the present resolution and the Declaration, and to submit to the General Assembly at its fiftieth session a report thereon, relating, in particular, to the modalities of implementation of paragraph 10 of the Declaration;

6. Decides to include in the provisional agenda of its fiftieth session the item entitled "Measures to eliminate international terrorism", in order to examine the report of the Secretary-General requested in paragraph 5 above, without prejudice to the annual or biennial consideration of the item.

84th plenary meeting
9 December 1994

ANNEX

Declaration on Measures to Eliminate International Terrorism

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

[1] A/49/257 and Add.1–3.

Recalling the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[2] the Declaration on the Strengthening of International Security,[3] the Definition of Aggression,[4] the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations,[5] the Vienna Declaration and Programme of Action, Adopted by the World Conference on Human Rights,[6] the International Covenant on Economic, Social and Cultural Rights[7] and the International Covenant on Civil and Political Rights,[7]

Deeply disturbed by the world-wide persistence of acts of international terrorism in all its forms and manifestations, including those in which States are directly or indirectly involved, which endanger or take innocent lives, have a deleterious effect on international relations and may jeopardize the security of States,

Deeply concerned by the increase, in many regions of the world, of acts of terrorism based on intolerance or extremism,

Concerned at the growing and dangerous links between terrorist groups and drug traffickers and their paramilitary gangs, which have resorted to all types of violence, thus endangering the constitutional order of States and violating basic human rights,

Convinced of the desirability for closer coordination and cooperation among States in combating crimes closely connected with terrorism, including drug trafficking, unlawful arms trade, money laundering and smuggling of nuclear and other potentially deadly materials, and bearing in mind the role that could be played by both the United Nations and regional organizations in this respect,

Firmly determined to eliminate international terrorism in all its forms and manifestations,

Convinced also that the suppression of acts of international terrorism, including those in which States are directly or indirectly involved, is an essential element for the maintenance of international peace and security,

Convinced further that those responsible for acts of international terrorism must be brought to justice,

Stressing the imperative need to further strengthen international cooperation between States in order to take and adopt practical and effective measures to prevent, combat and eliminate all forms of terrorism that affect the international community as a whole,

Conscious of the important role that might be played by the United Nations, the relevant specialized agencies and States in fostering widespread cooperation in preventing and combating international terrorism, inter alia, by increasing public awareness of the problem,

Recalling the existing international treaties relating to various aspects of the problem of international terrorism, inter alia, the Convention on Offences and Certain Other Acts Committed on

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[2] Resolution 2625 (XXV), annex.
[3] Resolution 2734 (XXV).
[4] Resolution 3314 (XXIX), annex.
[5] Resolution 42/22, annex.
[6] Report of the World Conference on Human Rights, Vienna, 14–25 June 1993 (A/CONF.157/24 (Part I)), chap. III.
[7] See resolution 2200 A (XXI), annex.

Board Aircraft, signed at Tokyo on 14 September 1963,[8] the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970,[9] the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971,[10] the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted in New York on 14 December 1973,[11] the International Convention against the Taking of Hostages, adopted in New York on 17 December 1979,[12] the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980,[13] the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988,[14] the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988,[15] the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988,[16] and the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991,[17]

Welcoming the conclusion of regional agreements and mutually agreed declarations to combat and eliminate terrorism in all its forms and manifestations,

Convinced of the desirability of keeping under review the scope of existing international legal provisions to combat terrorism in all its forms and manifestations, with the aim of ensuring a comprehensive legal framework for the prevention and elimination of terrorism,

Solemnly declares the following:

I

1. The States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism, as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States;

2. Acts, methods and practices of terrorism constitute a grave violation of the purposes and principles of the United Nations, which may pose a threat to international peace and security, jeopardize friendly relations among States, hinder international cooperation and aim at the destruction of human rights, fundamental freedoms and the democratic bases of society;

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[8] United Nations, Treaty Series, vol. 704, No. 10106.
[9] Ibid., vol. 860, No. 12325.
[10] Ibid., vol. 974, No. 14118.
[11] Ibid., vol. 1035, No. 15410.
[12] Resolution 34/146, annex.
[13] International Atomic Energy Agency, document INFCIRC/225; to be published in United Nations, Treaty Series, vol. 1456, No. 24631.
[14] International Civil Aviation Organization, document DOC 9518.
[15] International Maritime Organization, document SUA/CONF/15/Rev.1.
[16] Ibid., document SUA/CONF/16/Rev.2.
[17] See S/22393 and Corr.1.

3. Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them;

II

4. States, guided by the purposes and principles of the Charter of the United Nations and other relevant rules of international law, must refrain from organizing, instigating, assisting or participating in terrorist acts in territories of other States, or from acquiescing in or encouraging activities within their territories directed towards the commission of such acts;

5. States must also fulfil their obligations under the Charter of the United Nations and other provisions of international law with respect to combating international terrorism and are urged to take effective and resolute measures in accordance with the relevant provisions of international law and international standards of human rights for the speedy and final elimination of international terrorism, in particular:

(a) To refrain from organizing, instigating, facilitating, financing, encouraging or tolerating terrorist activities and to take appropriate practical measures to ensure that their respective territories are not used for terrorist installations or training camps, or for the preparation or organization of terrorist acts intended to be committed against other States or their citizens;

(b) To ensure the apprehension and prosecution or extradition of perpetrators of terrorist acts, in accordance with the relevant provisions of their national law;

(c) To endeavour to conclude special agreements to that effect on a bilateral, regional and multilateral basis, and to prepare, to that effect, model agreements on cooperation;

(d) To cooperate with one another in exchanging relevant information concerning the prevention and combating of terrorism;

(e) To take promptly all steps necessary to implement the existing international conventions on this subject to which they are parties, including the harmonization of their domestic legislation with those conventions;

(f) To take appropriate measures, before granting asylum, for the purpose of ensuring that the asylum seeker has not engaged in terrorist activities and, after granting asylum, for the purpose of ensuring that the refugee status is not used in a manner contrary to the provisions set out in subparagraph (a) above;

6. In order to combat effectively the increase in, and the growing international character and effects of, acts of terrorism, States should enhance their cooperation in this area through, in particular, systematizing the exchange of information concerning the prevention and combating of terrorism, as well as by effective implementation of the relevant international conventions and conclusion of mutual judicial assistance and extradition agreements on a bilateral, regional and multilateral basis;

7. In this context, States are encouraged to review urgently the scope of the existing international legal provisions on the preven-

tion, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter;

8. Furthermore States that have not yet done so are urged to consider, as a matter of priority, becoming parties to the international conventions and protocols relating to various aspects of international terrorism referred to in the preamble to the present Declaration;

III

9. The United Nations, the relevant specialized agencies and intergovernmental organizations and other relevant bodies must make every effort with a view to promoting measures to combat and eliminate acts of terrorism and to strengthening their role in this field;

10. The Secretary-General should assist in the implementation of the present Declaration by taking, within existing resources, the following practical measures to enhance international cooperation:

(a) A collection of data on the status and implementation of existing multilateral, regional and bilateral agreements relating to international terrorism, including information on incidents caused by international terrorism and criminal prosecutions and sentencing, based on information received from the depositaries of those agreements and from Member States;

(b) A compendium of national laws and regulations regarding the prevention and suppression of international terrorism in all its forms and manifestations, based on information received from Member States;

(c) An analytical review of existing international legal instruments relating to international terrorism, in order to assist States in identifying aspects of this matter that have not been covered by such instruments and could be addressed to develop further a comprehensive legal framework of conventions dealing with international terrorism;

(d) A review of existing possibilities within the United Nations system for assisting States in organizing workshops and training courses on combating crimes connected with international terrorism;

IV

11. All States are urged to promote and implement in good faith and effectively the provisions of the present Declaration in all its aspects;

12. Emphasis is placed on the need to pursue efforts aiming at eliminating definitively all acts of terrorism by the strengthening of international cooperation and progressive development of international law and its codification, as well as by enhancement of coordination between, and increase of the efficiency of, the United Nations and the relevant specialized agencies, organizations and bodies.

(6) A/RES/46/51, December 9, 1991

Measures to Eliminate International Terrorism

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

The General Assembly,

Recalling its resolutions 3034 (XXVII) of 18 December 1972, 31/102 of 15 December 1976, 32/147 of 16 December 1977, 34/145 of 17 December 1979, 36/109 of 10 December 1981, 38/130 of 19 December 1983, 40/61 of 9 December 1985, 42/159 of 7 December 1987 and 44/29 of 4 December 1989,

Recalling also the recommendations of the Ad Hoc Committee on International Terrorism contained in its report to the General Assembly at its thirty-fourth session,

Recalling further the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, the Declaration on the Strengthening of International Security, the Definition of Aggression and relevant instruments on international humanitarian law applicable in armed conflict,

Recalling moreover the existing international conventions relating to various aspects of the problem of international terrorism, inter alia, the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted in New York on 14 December 1973, the International Convention against the Taking of Hostages, adopted in New York on 17 December 1979, the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988, the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988, the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988 and the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991,

Convinced that a policy of firmness and effective measures should be taken in accordance with international law in order that

all acts, methods and practices of international terrorism may be brought to an end,

Bearing in mind Security Council resolution 638 (1989) of 31 July 1989 on the taking of hostages,

Deeply disturbed by the world-wide persistence of acts of international terrorism in all its forms, including those in which States are directly or indirectly involved, which endanger or take innocent lives, have a deleterious effect on international relations and may jeopardize the territorial integrity and security of States,

Calling attention to the growing connection between terrorist groups and drug traffickers,

Convinced of the importance of the observance by States of their obligations under the relevant international conventions to ensure that appropriate law enforcement measures are taken in connection with the offences addressed in those conventions,

Convinced also of the importance of expanding and improving international cooperation among States, on a bilateral, regional and multilateral basis, which will contribute to the elimination of acts of international terrorism and their underlying causes and to the prevention and elimination of this criminal scourge,

Convinced further that international cooperation in combating and preventing terrorism will contribute to the strengthening of confidence among States, reduce tensions and create a better climate among them,

Mindful of the need to enhance the role of the United Nations and the relevant specialized agencies in combating international terrorism,

Mindful also of the necessity of maintaining and protecting the basic rights of, and guarantees for, the individual in accordance with the relevant international human rights instruments and generally accepted international standards,

Reaffirming the principle of self-determination of peoples as enshrined in the Charter of the United Nations,

Reaffirming also the inalienable right to self-determination and independence of all peoples under colonial and racist regimes and other forms of alien domination and foreign occupation, and upholding the legitimacy of their struggle, in particular the struggle of national liberation movements, in accordance with the purposes and principles of the Charter and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,

Noting the efforts and important achievements of the International Civil Aviation Organization and the International Maritime Organization in promoting the security of international air and sea transport against acts of terrorism,

Recognizing that the effectiveness of the struggle against terrorism could be enhanced by the establishment of a generally agreed definition of international terrorism,

Taking note of the report of the Secretary-General,

1. Once again unequivocally condemns, as criminal and unjustifiable, all acts, methods and practices of terrorism wherever and by whomever committed, including those which jeopardize the friendly relations among States and their security;

2. Deeply deplores the loss of human lives which results from such acts of terrorism, as well as the pernicious impact of these acts on relations of cooperation among States;

3. Calls upon all States to fulfil their obligations under international law to refrain from organizing, instigating, assisting or participating in terrorist acts in other States, or acquiescing in or encouraging activities within their territory directed towards the commission of such acts;

4. Urges all States to fulfil their obligations under international law and take effective and resolute measures for the speedy and final elimination of international terrorism and to that end, in particular:

(a) To prevent the preparation and organization in their respective territories, for commission within or outside their territories, of terrorist and subversive acts directed against other States and their citizens;

(b) To ensure the apprehension and prosecution or extradition of perpetrators of terrorist acts;

(c) To endeavour to conclude special agreements to that effect on a bilateral, regional and multilateral basis;

(d) To cooperate with one another in exchanging relevant information concerning the prevention and combating of terrorism;

(e) To take promptly all steps necessary to implement the existing international conventions on this subject to which they are parties, including the harmonization of their domestic legislation with those conventions;

5. Appeals to all States that have not yet done so to consider becoming party to the international conventions relating to various aspects of international terrorism referred to in the preamble to the present resolution;

6. Urges all States, unilaterally and in cooperation with other States, as well as relevant United Nations organs, to contribute to the progressive elimination of the causes underlying international terrorism and to pay special attention to all situations, including colonialism, racism and situations involving mass and flagrant violations of human rights and fundamental freedoms and those involving alien domination and foreign occupation, that may give rise to international terrorism and may endanger international peace and security;

7. Firmly calls for the immediate and safe release of all hostages and abducted persons, wherever and by whomever they are being held;

8. Calls upon all States to use their political influence in accordance with the Charter of the United Nations and the principles of international law to secure the safe release of all hostages and abducted persons and to prevent the commission of acts of hostage-taking and abduction;

9. Expresses concern at the growing and dangerous links between terrorist groups, drug traffickers and their paramilitary gangs, which have resorted to all types of violence, thus endangering the constitutional order of States and violating basic human rights;

10. Welcomes the efforts undertaken by the International Civil Aviation Organization aimed at promoting universal acceptance of,

and strict compliance with, international air security conventions, and welcomes also the recent adoption of the Convention on the Marking of Plastic Explosives for the Purpose of Detection;

11. Requests the other relevant specialized agencies and intergovernmental organizations, in particular the International Maritime Organization, the Universal Postal Union, the World Tourism Organization, the International Atomic Energy Agency and the United Nations Educational, Scientific and Cultural Organization, within their respective spheres of competence, to consider what further measures can usefully be taken to combat and eliminate terrorism;

12. Requests the Secretary-General to continue seeking the views of Member States on international terrorism in all its aspects and on ways and means of combating it, including the convening at an appropriate time, under the auspices of the United Nations, of an international conference to deal with international terrorism in the light of the proposal referred to in the penultimate preambular paragraph of resolution 44/29;

13. Also requests the Secretary-General to seek the views of Member States on the proposals contained in his report or made during the debate on this item in the Sixth Committee, and on the ways and means of enhancing the role of the United Nations and the relevant specialized agencies in combating international terrorism;

14. Further requests the Secretary-General to follow up, as appropriate, the implementation of the present resolution and to submit a report in this respect to the General Assembly at its forty-eighth session;

15. Considers that nothing in the present resolution could in any way prejudice the right to self-determination, freedom and independence, as derived from the Charter of the United Nations, of peoples forcibly deprived of that right referred to in the Declaration of Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, particularly peoples under colonial and racist regimes or other forms of alien domination, or the right of these peoples to struggle legitimately to this end and to seek and receive support in accordance with the principles of the Charter, the abovementioned Declaration and the relevant General Assembly resolutions, including the present resolution;

16. Decides to include in the provisional agenda of its forty-eighth session an item entitled "Measures to eliminate international terrorism".

(7) A/RES/40/61, December 9, 1985

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

Measures to Eliminate International Terrorism

Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes

The General Assembly,

Recalling its resolutions 3034 (XXVII) of 18 December 1972, 31/102 of 15 December 1976, 32/147 of 16 December 1977, 34/145 of 17 December 1979, 36/109 of 10 December 1981 and 38/130 of 19 December 1983,

Recalling also the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the Declaration on the Strengthening of International Security, the Definition of Aggression and relevant instruments on international humanitarian law applicable in armed conflict,

Further recalling the existing international conventions relating to various aspects of the problem of international terrorism, inter alia, the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, signed at New York on 14 December 1973, and the International Convention against the Taking of Hostages, adopted at New York on 17 December 1979,

Deeply concerned about the world-wide escalation of acts of terrorism in all its forms, which endanger or take innocent human lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings,

Taking note of the deep concern and condemnation of all acts of international terrorism expressed by the Security Council and the Secretary-General,

Convinced of the importance of expanding and improving international co-operation among States, on a bilateral and multilateral basis, which will contribute to the elimination of acts of international terrorism and their underlying causes and to the prevention and elimination of this criminal scourge,

Reaffirming the principle of self-determination of peoples enshrined in the Charter of the United Nations,

Reaffirming also the inalienable right to self-determination and independence of all peoples under colonial and racist regimes and other forms of alien domination, and upholding the legitimacy of their struggle, in particular the struggle of national liberation movements, in accordance with the purposes and principles of the Charter and of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations,

Mindful of the necessity of maintaining and safeguarding the basic rights of the individual in accordance with the relevant international human rights instruments and generally accepted international standards,

Convinced of the importance of the observance by States of their obligations under the relevant international conventions to ensure that appropriate law enforcement measures are taken in connection with the offences addressed in those Conventions,

Expressing its concern that in recent years terrorism has taken on forms that have an increasingly deleterious effect on international relations, which may jeopardize the very territorial integrity and security of States,

Taking note of the report of the Secretary-General,

1. Unequivocally condemns, as criminal, all acts, methods and practices of terrorism wherever and by whomever committed, including those which jeopardize friendly relations among States and their security;

2. Deeply deplores the loss of innocent human lives which results from such acts of terrorism;

3. Also deplores the pernicious impact of acts of international terrorism on relations of co-operation among States, including co-operation for development;

4. Appeals to all States that have not yet done so to consider becoming party to the existing international conventions relating to various aspects of international terrorism;

5. Invites all States to take all appropriate measures at the national level with a view to the speedy and final elimination of the problem of international terrorism, such as the harmonization of domestic legislation with existing international conventions, the fulfilment of assumed international obligations, and the prevention of the preparation and organization in their respective territories of acts directed against other States;

6. Calls upon all States to fulfil their obligations under international law to refrain from organizing, instigating, assisting or participating in terrorist acts in other States, or acquiescing in activities within their territory directed towards the commission of such acts;

7. Urges all States not to allow any circumstances to obstruct the application of appropriate law enforcement measures provided for in the relevant conventions to which they are party to persons who commit acts of international terrorism covered by those conventions;

8. Also urges all States to co-operate with one another more closely, especially through the exchange of relevant information

concerning the prevention and combating of terrorism, the apprehension and prosecution or extradition of the perpetrators of such acts, the conclusion of special treaties and/or the incorporation into appropriate bilateral treaties of special clauses, in particular regarding the extradition or prosecution of terrorists;

9. Further urges all States, unilaterally and in co-operation with other States, as well as relevant United Nations organs, to contribute to the progressive elimination of the causes underlying international terrorism and to pay special attention to all situations, including colonialism, racism and situations involving mass and flagrant violations of human rights and fundamental freedoms and those involving alien occupation, that may give rise to international terrorism and may endanger international peace and security;

10. Calls upon all States to observe and implement the recommendations of the Ad Hoc Committee on International Terrorism contained in its report to the General Assembly at its thirty-fourth session;

11. Also calls upon all States to take all appropriate measures as recommended by the International Civil Aviation Organization and as set forth in relevant international conventions to prevent terrorist attacks against civil aviation transport and other forms of public transport;

12. Encourages the International Civil Aviation Organization to continue its efforts aimed at promoting universal acceptance of and strict compliance with the international air security conventions;

13. Requests the International Maritime Organization to study the problem of terrorism aboard or against ships with a view to making recommendations on appropriate measures;

14. Requests the Secretary-General to follow up, as appropriate, the implementation of the present resolution and to submit a report to the General Assembly at its forty-second session;

15. Decides to include the item in the provisional agenda of its forty-second session.

b. General Assembly/Security Council: A/46/831 S/2317, December 23, 1991

LETTER FROM THE ACTING PERMANENT REPRESENTATIVE

INDICTMENT IN CONNECTION WITH THE BOMBING OF PAN AM FLIGHT 103

General Assembly **Security Council**

Distr.
GENERAL

A/46/831
S/23317
23 December 1991

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-sixth session
Agenda item 125
MEASURES TO PREVENT INTERNATIONAL TERRORISM WHICH ENDANGERS OR TAKES INNOCENT HUMAN LIVES OR JEOPARDIZES FUNDAMENTAL FREEDOMS AND STUDY OF THE UNDERLYING CAUSES OF THOSE FORMS OF TERRORISM AND ACTS OF VIOLENCE WHICH LIE IN MISERY, FRUSTRATION, GRIEVANCE AND DESPAIR AND WHICH CAUSE SOME PEOPLE TO SACRIFICE HUMAN LIVES, INCLUDING THEIR OWN, IN AN ATTEMPT TO EFFECT RADICAL CHANGES

SECURITY COUNCIL
Forty-sixth year

Letter dated 23 December 1991 from the Acting Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General

I have the honour to enclose a copy of the indictment handed down by the United States District Court for the District of Columbia on 14 November in connection with the bombing of Pan Am flight 103 (see annex).

I would be grateful if you would have this letter and its enclosure circulated as an official document of the General Assembly, under agenda item 125, and of the Security Council.

(Signed) Alexander F. WATSON
Acting Permanent Representative

91-42259 2901j (E)

ANNEX

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

UNITED STATES OF AMERICA	:	Criminal No.
	:	
v.	:	Grand Jury Original
	:	
ABDEL BASSET ALI AL-MEGRAHI,	:	Violations: 18 U.S.C. SS 371,
A/K/A ABDELBASET ALI MOHMED,	:	32, 34, 844(i), 2331, and 2
A/K/A ABDELBASET ALI MOHMED AL MEGRAHI,	:	(Conspiracy to Destroy a Civil
A/K/A "MR. BASET",	:	Aircraft of the United States, to
A/K/A AHMED KHALIFA ABDUSAMAD;	:	Destroy a Vehicle Used in Foreign
	:	Commerce by Means of an Explosive,
LAMEN KHALIFA FHIMAH,	:	to Kill Nationals of the United
A/K/A AL AMIN KHALIFA FHIMAH,	:	States Destroying a Civil
A/K/A "MR. LAMIN"	:	Aircraft; Destroying a Vehicle
	:	Used in Foreign Commerce by Means
	:	of an Explosive; Killing Nationals
	:	of the United States; Aiding and
	:	Abetting)

INDICTMENT

The Grand Jury charges that:

COUNT ONE

INTRODUCTION

At all times material to this Indictment, except as otherwise indicated:

1. The Socialist People's Libyan Arab Jamahiriya (hereinafter referred to as "Libya") was a nation located on the Mediterranean coast of North Africa.

2. The Jamahiriya Security Organization (hereinafter referred to as "JSO") was the Libyan intelligence service through which Libya conducted acts of terrorism against other nations and repressed the activities of Libyan dissidents abroad.

3. The JSO was divided into various administrations and sections, including the Technical Administration.

4. The Technical Administration's responsibilities included assisting other administrations within the JSO in developing technical equipment and to provide technical support to JSO operations in Libya and abroad.

5. In 1984-1985, Said Rashid Kisha (hereinafter referred to as Said Rashid) was the Assistant Manager of the Technical Administration of the JSO, and in 1985 requested Edwin Bollier of the Swiss firm of Meister et Bollier to develop timers for the Libyans.

6. From 1985, to on or about 1 January 1987, Said Rashid was the Director of the Operations Administration of the JSO.

7. The Operations Administration of the JSO was further divided into various sections including the Airline Security Section.

8. The Airline Security Section of the JSO was responsible for the following functions:

(a) Providing physical security for Libyan Arab Airlines (hereinafter referred to as "LAA") aircraft and passengers on domestic and international flights; and

(b) Overseeing the covert placement and intelligence operations of JSO officers as employees of Libyan Arab Airlines in various countries, including the Republic of Malta.

9. During the period while Said Rashid was the Director of the Operations Administration, ABDEL BASSET ALI AL-MEGRAHI was the Chief of the Airline Security Section.

10. Izzel Din Al Hinshiri (hereinafter referred to as Hinshiri) at various times material to this Indictment held the following positions: Libyan Minister of Transportation, Minister of Justice, Secretary General to the People's Committee for Justice in Libya, Director, and Assistant to the Director, of the Central Security Administration of the JSO.

11. At various times material to this Indictment, beginning in 1985 and continuing into 1986, Hinshiri received, and caused to be received on behalf of the JSO, 20 prototype digital electric timers, Model MST-13, capable of initiating an explosive device, which had been manufactured by the Swiss firm of Meister et Bollier.

12. Meister et Bollier, Ltd., Telecommunications, a/k/a MESO AG, was a company located in Zurich, Switzerland, which maintained a close business relationship with elements of the Libyan military and JSO as a manufacturer and supplier of technical equipment.

13. ABH was a Libyan front company which sublet office space in Zurich, Switzerland, from Meister et Bollier.

14. Badri Hasan was a citizen of Libya, who was associated along with ABDEL BASSET in the activities of ABH in Zurich, Switzerland.

15. At various times material in 1988, the Libyan JSO issued Semtex explosives containing the substances RDX and PETN, electric blasting caps or detonators, and MST-13 digital electric timers capable of initiating an explosion at a predetermined future time, to JSO operatives who engaged in covert terrorist operations outside of Libya, including in the Republic of Senegal.

16. Libyan Arab Airlines was the national airline of Libya and was utilized by the JSO to facilitate its acts of terrorism and repression.

17. Air Malta, the national airline of the Republic of Malta, was the handling agent for Libyan Arab Airlines flights to and from Luqa Airport, Malta, and as such utilized Air Malta luggage tags on luggage destined for Libyan Arab Airline flights.

18. Air Malta employees boarding passengers and luggage for Libyan Arab Airline flights were assisted by a representative of Libyan Arab Airlines.

19. The Defendant LAMEN KHALIFA FHIMAH, A/K/A AL AMIN KHALIFA FHIMAH, A/K/A "MR. LAMIN" (hereinafter referred to as "LAMEN FHIMAH"), was a citizen of Libya, and was utilized by the JSO in various cover positions, including at various times as the Station Manager and representative for Libyan Arab Airlines at Luqa Airport, Malta.

20. The Defendant LAMEN FHIMAH had access to Air Malta luggage tags and the Air Malta facilities used to board passengers and baggage for LAA flights from Luqa Airport, Malta.

21. The Defendant ABDEL BASSET ALI AL-MEGRAHI, A/K/A ABDELBASET ALI MOHMED, A/K/A ABDELBASET ALI MOHMED AL MEGRAHI, A/K/A "MR. BASET", A/K/A AHMED KHALIFA ABDUSAMAD (hereinafter referred to as "ABDEL BASSET"), was a citizen of Libya and was utilized by the JSO in various positions including as the Chief of the Airline Security Section, Operations Division, and as such was familiar with international airline security procedures.

22. On 21 December 1988, between 0850 and 0950 hours (CET), Libyan Arab Airlines Flight LN 147 to Tripoli, Libya, on which the Defendant ABDEL BASSET was travelling, was boarding at Luqa Airport, Malta, while Air Malta Flight KM-180 to Frankfurt, Germany, was also open for check-in between 0815 and 0915 hours, CET.

23. On 21 December 1988, Air Malta Flight KM-180 from Luqa Airport, Malta, arrived at approximately 1250 hours, Central Europe Time (CET), at Frankfurt Airport, Germany.

24. On 21 December 1988, at approximately 1600 hours, CET, Pan Am Flight 103A, with connecting service to London's Heathrow Airport and Pan Am Flight 103, departed Frankfurt, with an item of luggage that had been transferred from Air Malta Flight KM-180.

25. On 21 December 1988, between approximately 1740 hours and 1807 hours, GMT, luggage from Pan Am Flight 103A arriving from Frankfurt, Germany, was loaded onto Pan Am Flight 103 (United States aircraft number N739PA) at London's Heathrow Airport.

26. Pan American World Airways was an airline owned by a corporation created under the laws of a State of the United States and registered under Chapter 20, Title 49 of the United States Code, which airline flew its aircraft in commerce between the United States and other countries; and operated aircraft leased from and owned by a corporation created under the laws of the State of New York.

27. Pan American World Airways aircraft bearing number N739PA was a civil aircraft of the United States registered with the Federal Aviation Administration as required by Title 49 U.S.C. App., Section 1401, and operating within the special aircraft jurisdiction of the United States as defined by Title 49 U.S.C. App., Sec. 1301 (38).

28. On 21 December 1988, Pan American World Airways Flight 103 was operating in foreign air commerce between London's Heathrow Airport in the United Kingdom, and John F. Kennedy Airport in the United States of America.

29. On 21 December 1988, Pan American World Airways Flight 103 carried two hundred fifty-nine people (two hundred forty-three passengers and sixteen crew members) who were citizens of the following countries: United States of America, United Kingdom of Great Britain and Northern Ireland, Switzerland, France, Canada, Israel, Argentina, Sweden, Ireland, Italy, Hungary, South Africa, Germany, Spain, Jamaica, Philippines, India, Belgium, Trinidad, Japan and Bolivia.

30. On 21 December 1988, at approximately 7.03 p.m., GMT, Pan American World Airways Flight 103 broke apart in Scottish airspace at an altitude of 31,000 feet as the result of the detonation of an explosive device in its forward cargo hold.

31. As the result of the explosion, Pan American World Airways Flight 103 was destroyed and fell to earth, killing all two hundred fifty-nine passengers and crew, as well as eleven residents of the Scottish town of Lockerbie.

THE CONSPIRACY

32. From on or about the summer of 1985 to and including the date of the return of this Indictment, within the nations of Libya, Switzerland, Malta, Germany, the United Kingdom and elsewhere outside the United States of America, the Defendants ABDEL BASSET and LAMEN FHIMAH, together with others unknown to the Grand Jury, did unlawfully, wilfully and knowingly, conspire, combine and agree together and with others to commit terrorist acts against the United States of America and its citizens.

33. It was a part of the conspiracy that the Defendants and co-conspirators would and did place and cause to be placed a destructive device and substance in and upon Pan American World Airways Flight 103, an aircraft within the special aircraft jurisdiction of the United States and a civil aircraft used, operated, and employed in overseas and foreign air commerce; in violation of Title 18, United States Code, Sections 32(a)(2) and 2.

34. It was a further part of the conspiracy that the Defendants and co-conspirators would and did damage and destroy, by means of an explosive device, Pan American World Airways Flight 103, an aircraft in the special aircraft jurisdiction of the United States and a civil aircraft used, operated, and employed in overseas and foreign air commerce; in violation of Title 18, United States Code, Section 32(a)(1) and 2.

35. It was a further part of the conspiracy that the Defendants and co-conspirators would and did damage and destroy by means of an explosive device Pan American World Airways Flight 103, a vehicle used in foreign commerce and in an activity affecting foreign commerce; in violation of Title 18, United States Code, Section 844(i) and 2.

36. It was a further part of the conspiracy that the Defendants and co-conspirators would and did kill nationals of the United States while such nationals were outside the United States, the killings being murder as defined by Section 1111(a) of Title 18, United States Code; in violation of Title 18, United States Code, Sections 2331(a) and 2.

37. It was further a part of the conspiracy that the Defendants and co-conspirators would and did conceal the involvement of the Libyan JSO in terrorist acts against the United States and its citizens.

THE MANNER AND MEANS USED BY THE CONSPIRATORS TO FURTHER THE OBJECTS OF THE CONSPIRACY

38. Among the means used by the Defendants and co-conspirators to further the objects of the conspiracy were the following:

(a) The Defendants and co-conspirators, as officers and operatives of the JSO, utilized the resources and facilities of the nation of Libya, including the JSO, to carry out their scheme to destroy an American aircraft by means of an explosive device and to kill passengers on board the aircraft.

(b) The Defendants and co-conspirators constructed and caused to be constructed an improvised explosive device consisting of plastic explosives containing the substances RDX and PETN, and an MST-13 prototype digital electronic timer, capable of initiating an explosion at a predetermined future time, which had been manufactured for and delivered to the Libyan JSO by the Swiss firm of Meister et Bollier during the period of 1985 to 1986 at the request of Said Rashid and Hinshiri.

(c) The Defendants and co-conspirators caused the improvised explosive device to be concealed inside a portable radio cassette player.

(d) The Defendants and co-conspirators caused the radio cassette player to be placed inside a brown colored Samsonite Silhouette 4000 range suitcase.

(e) The Defendants and co-conspirators caused that suitcase to be packed with clothing, purchased in Malta, to provide the appearance of a normal travel bag.

(f) The Defendants and co-conspirators caused the suitcase, with the armed device concealed within it, to be placed in the stream of international airline passenger luggage at Luqa Airport in the Republic of Malta.

(g) The Defendants and co-conspirators utilized various false identities to enter Malta and other nations within which the conspiracy was carried out.

(h) The Defendants and co-conspirators utilized their knowledge and access gained as a result of their employment with Libyan Arab Airlines to circumvent and evade Maltese customs and airline security at Luqa Airport and elsewhere; and improperly obtained and utilized the Air Malta baggage tags to cause the interline transfer of the suitcase, containing the explosive device, to other aircraft.

(i) The Defendants and co-conspirators caused the suitcase containing the explosive device to be placed into the baggage compartment of Air Malta Flight KM-180 at Luqa Airport, Malta; caused the same suitcase to be transferred from Air Malta Flight KM-180 to Pan American World Airways Flight 103A in Frankfurt, Germany; caused the same suitcase to be further transferred to Pan American World Airways Flight 103 at Heathrow Airport, London, United Kingdom; caused the detonation of the explosive device during Pan American World Airways Flight 103's journey to the United States; and caused the destruction of Pan American World Airways Flight 103 and the death of two hundred seventy persons in the aircraft and on the ground.

OVERT ACTS

39. In order to further the conspiracy and to achieve its objectives, the following overt acts, among others, were committed in Libya, Switzerland, Malta, Germany, the United Kingdom, and elsewhere:

(a) In or about the summer of 1988, LAMEN FHIMAH stored a quantity of plastic explosive in his office at the Libyan Arab Airlines Station, Luqa Airport, Malta.

(b) In or about the fall of 1988, ABDEL BASSET flew from Tripoli, Libya, to Luqa Airport, Malta, on Libyan Arab Airlines.

(c) On or about 7 December 1988, ABDEL BASSET travelled from Libya to Malta.

(d) On or about 7 December 1988, ABDEL BASSET registered at the Holiday Inn, Sliema, Malta, using the name "ABDEL BASET A. MOHMED", a "FLIGHT DISPACHER" (sic) for Libyan Arab Airlines.

(e) On or about 7 December 1988, in Sliema, Malta, ABDEL BASSET purchased items of clothing from Mary's House, a retail store located approximately 300 yards from the hotel in which ABDEL BASSET was staying.

(f) On or about 9 December 1988, ABDEL BASSET travelled from Malta to Zurich, Switzerland.

(g) On or about 15 December 1988, LAMEN FHIMAH made the following entries in his diary: "Abdel Basset is coming from Zurich with Salvu ..." and "take taggs [sic] from Air Malta."

(h) On or about 15 December 1988, LAMEN FHIMAH made an additional entry in the "Notes" section of his diary: "bring the tags from the Airport (ABDEL BASSET-ABDUL SALAM)."

(i) On or about 15 December 1988, LAMEN FHIMAH made an additional entry in his diary by writing letters "OK" adjacent to the notation: "ABDEL BASSET is coming from Zurich with Salvu ... take taggs [sic] from Air Malta."

(j) On or about 17 December 1988, ABDEL BASSET travelled from Zurich, Switzerland, to Luqa Airport, Malta, and then on to Tripoli, Libya.

(k) On or about 18 December 1988, LAMEN FHIMAH travelled from Malta to Libya for a meeting with ABDEL BASSET.

(l) On or about 20 December 1988, ABDEL BASSET travelled from Libya to Luqa Airport, Malta, utilizing the false identity of "AHMED KHALIFA ABDUSAMAD"

(m) On or about 20 December 1988, LAMEN FHIMAH travelled from Tripoli, Libya, to Luqa Airport, Malta, on the same flight as ABDEL BASSET.

(n) On or about 20 December 1988, the Defendants and co-conspirators brought a large, brown hard-sided Samsonite suitcase into Malta.

(o) On or about 20 December 1988, ABDEL BASSET had a meeting with LAMEN FHIMAH in Malta.

(p) On or about 20 December 1988, ABDEL BASSET registered at the Holiday Inn, Sliema, Malta, under the false name "AHMED KHALIFA ABDUSAMAD".

(q) On 21 December 1988, at approximately 7.11 a.m., CET, ABDEL BASSET placed a telephone call to LAMEN FHIMAH from the Holiday Inn, Sliema, Malta.

(r) On 21 December 1988, ABDEL BASSET, travelling under an assumed name, departed Luqa Airport, Malta, on LAA Flight LN 147 to Tripoli, Libya.

(s) On 21 December 1988, between 0815 and 0915 hours, CET, the Defendants and co-conspirators unknown to the Grand Jury, caused a brown, hard-sided Samsonite suitcase containing an explosive device incorporating an MST-13 timer, previously manufactured for the JSO, to be introduced as part of the interline baggage in Air Malta Flight KM-180 to Frankfurt, Germany.

(t) On 21 December 1988, the Defendants and co-conspirators unknown to the Grand Jury, destroyed aircraft N739PA as charged in Count Three of this Indictment, the allegations of which are hereby re-alleged and incorporated by reference.

(u) On 21 December 1988, the Defendants and co-conspirators unknown to the Grand Jury, by means of fire and explosives destroyed aircraft N739PA, and as a direct result thereof caused the death of two hundred seventy persons as set forth in Counts Two and Three, the allegations of which are hereby re-alleged and incorporated by reference.

(v) On 21 December 1988, the Defendants and co-conspirators unknown to the Grand Jury, by means of fire and explosives destroyed aircraft N739PA, and as a direct result thereof, did murder one hundred eighty-nine nationals of the United States, as set forth in Counts Five through One Hundred Ninety-Three, the allegations of which are hereby re-alleged and incorporated by reference.

(Violation of Title 18, United States Code, Section 371)

COUNT TWO

1. The Grand Jury hereby re-alleges and incorporates by reference paragraphs One through Thirty-one of Count One of this Indictment.

2. On or about 21 December 1988, at Heathrow Airport, London, United Kingdom, and elsewhere, the Defendants ABDEL BASSET and LAMEN FHIMAH, together with others unknown to the Grand Jury, wilfully and unlawfully caused to be placed a destructive device and substance in and upon aircraft number N739PA, a civil aircraft of the United States used, operated, and employed in overseas and foreign air commerce by Pan American World Airways as Pan Am Flight 103, en route to the United States from Heathrow Airport, London, United Kingdom, resulting in the deaths of:

Victim	Citizenship
John Michael Gerard Ahern	USA
Sarah Margaret Aicher	USA
John David Akerstrom	USA
Ronald Ely Alexander	Swiss
Thomas Joseph Ammerman	USA
Martin Lewis Apfelbaum	USA
Rachel Marie Asrelsky	USA
Judith Ellen Atkinson	USA
William Garretson Atkinson III	USA
Elisabeth Nichole Avoyne	French
Jerry Don Avritt	USA
Clare Louis Bacciochi	British
Harry Michael Bainbridge	USA
Stuart Murray Barclay	Canadian
Jean Mary Bell	British
Julian MacBain Benello	USA
Lawrence Ray Bennett	USA
Philip Vernon Bergstrom	USA
Alistair David Berkley	USA
Michael Stuart Bernstein	USA
Steven Russell Berrell	USA
Noelle Lydie Berti-Campbell	USA
Surinder Mohan Bhatia	USA
Kenneth John Bissett	USA
Stephen John Boland	USA
Paula Marie Bouckley	USA
Glenn John Bouckley	British
Nicole Elise Boulanger	USA
Francis Boyer	French
Nicholas Bright	USA
Daniel Solomon Browner (Beer)	Israel
Colleen Renee Brunner	USA
Timothy Guy Burman	British
Michael Warren Buser	USA
Warren Max Buser	USA
Steven Lee Butler	USA
William Martin Cadman	USA
Hernan Luis Caffarone	Argentinian
Fabiana Caffarone	Argentinian
Valerie Canady	USA
Gregory Joseph Capasso	USA
Timothy Michael Cardwell	USA
Bernt Wilmar Carlsson	Swedish
Richard Anthony Cawley	USA
Frank Ciulla	USA
Theodora Eugenia Cohen	USA
Jason Michael Coker	USA
Eric Michael Coker	USA
Gary Leonard Colasanti	USA

Victim	Citizenship
Thomas Concannon	Irish
Bridget Concannon	Irish
Sean Concannon	British
Tracy Jane Corner	British
Scott Marsh Cory	USA
Willis Larry Coursey	USA
Patricia Mary Coyle	USA
John Binning Cummock	USA
Joseph Patrick Curry	USA
William Alan Daniels	USA
Gretchen Joyce Dater	USA
Shannon Davis	USA
Gabriele Della-Ripa	Italian
Joyce Christine Dimauro	USA
Gianfranca Dinardo	Italian
Peter Thomas Stanley Dix	Irish
Om Dikshit	Indian
Shanti Dixit	USA
David Scott Dornstein	USA
Michael Joseph Doyle	USA
Edgar Howard Eggleston III	USA
Siv Ulla Engstrom	Swedish
Turhan Ergin	USA
Charles Thomas Fisher IV	USA
Thomas Brown Flannigan	British
Kathleen Mary Flannigan	British
Joanne Flannigan	British
Clayton Lee Flick	British
John Patrick Flynn	USA
Arthur Jay Fondiler	USA
Robert Gerard Fortune	USA
Stacie Denise Franklin	USA
Paul Matthew Stephen Freeman	Canadian
Diane Ann Boatman-Fuller	USA
James Ralph Fuller	USA
Ibolya Robertne Gabor	Hungarian
Amy Beth Gallagher	USA
Matthew Kevin Gannon	USA
Kenneth Raymond Garczynski	USA
Paul Isaac Garrett	USA
Kenneth James Gibson	USA
William David Giebler	USA
Olive Leonora Gordon	British
Linda Susan Gordon-Gorgacz	USA
Anne Madelene Gorgacz	USA
Loretta Anne Gorgacz	USA
David Jay Gould	USA
Andre Nikolai Guevorgian	USA
Nicola Jane Hall	South African

Victim	Citizenship
Lorraine Frances Halsch	USA
Lynne Carol Hartunian	USA
Anthony Lacey Hawkins	British
Maurice Peter Henry	British
Dora Henrietta Henry	British
Pamela Blaine Herbert	USA
Rodney Peter Hilbert	USA
Alfred Hill	German
Katherine Augusta Hollister	USA
Josephine Lisa Hudson	British
Sophie Ailetta Miriam Hudson	French
Melina Kristina Hudson	USA
Karen Lee Hunt	USA
Roger Elwood Hurst	USA
Elisabeth Sophie Ivell	British
Khaled Mazir Jaafar	USA
Robert Van Houten Jeck	USA
Rachel Mary Elizabeth Jeffreys	British
Paul Avron Jeffreys	British
Kathleen Mary Jermyn	USA
Beth Ann Johnson	USA
Mary Lincoln Johnson	USA
Timothy Baron Johnson	USA
Christopher Andrew Jones	USA
Julianne Frances Kelly	USA
Jay Joseph Kingham	USA
Patricia Ann Klein	USA
Gregory Kosmowski	USA
Elka Etha Kuhne	German
Minas Christopher Kulukundis	British
Mary Lancaster	British
Ronald Albert Lariviere	USA
Maria Nieves Larracoechea	Spanish
Robert Milton Leckburg	USA
William Chase Leyrer	USA
Wendy Anne Lincoln	USA
Alexander Lowenstein	USA
Lloyd David Ludlow	USA
Maria Theresia Lurbke	German
William Edward Mack	USA
Douglas Eugene Malicote	USA
Wendy Gay Malicote	USA
Elizabeth Lillian Marek	USA
Louis Anthony Marengo	USA
Noel George Martin	Jamaican
Diane Marie Maslowski	USA
William John McAllister	British
Lilibeth Tobila MacAlolooy	USA

Victim	Citizenship
Daniel Emmet McCarthy	USA
Robert Eugene McCollum	USA
Charles Dennis McKee	USA
Bernard Joseph McLaughlin	USA
James Bruce MacQuarrie	USA
Jane Susan Melber	USA
John Merrill	British
Suzanne Marie Miasga	USA
Joseph Kenneth Miller	USA
Jewel Courtney Mitchell	USA
Richard Paul Monetti	USA
Jane Ann Morgan	USA
Eva Ingeborg Morson	USA
Helga Rachael Mosey	British
John Mulroy	USA
Sean Kevin Mulroy	USA
Ingrid Elisabeth Mulroy	Swedish
Mary Geraldine Murphy	British
Jean Aitken Murray	British
Karen Elizabeth Noonan	USA
Daniel Emmett O'Connor	USA
Mary Denice O'Neill	USA
Anne Lindsey Otenasek	USA
Bryony Elise Owen	British
Gwyneth Yvonne Margaret Owen	British
Robert Plack Owens	USA
Martha Owens	USA
Sarah Rebecca Owens	USA
Laura Abigail Owens	USA
Robert Italo Pagnucco	USA
Christos Michael Papadopoulos	USA
Peter Raymond Peirce	USA
Michael Cosimo Pescatore	USA
Sarah Susannah Buchanan Philipps	USA
Frederick Sandford Phillips	USA
James Andrew Campbell Pitt	USA
David Platt	USA
Walter Leonard Porter	USA
Pamela Lynn Posen	USA
William Fugh	USA
Crisostomo Estrella Quiguyan	Filipino
Rajesh Tarsis Priskel Ramses	Indian
Suruchi Rattan	USA
Anmol Rattan	USA
Garima Rattan	USA
Anita Lynn Reeves	USA
Mark Alan Rein	USA
Jocelyn Reina	USA

Victim	Citizenship
Diane Marie Rencevicz	USA
Louise Ann Rogers	USA
Janos Gabor Roller	Hungarian
Edina Roller	Hungarian
Isuzzanna Roller	Hungarian
Hanne Maria Root	Canadian
Saul Mark Rosen	USA
Andrea Victoria Rosenthal	USA
Daniel Peter Rosenthal	USA
Myra Josephine Royal	USA
Arnaud David Rubin	Belgian
Elyse Jeanne Saraceni	USA
Teresa Elizabeth Jane Saunders	British
Scott Christopher Saunders	USA
Johannes Otto Schaeuble	German
Robert Thomas Schlageter	USA
Thomas Britton Schultz	USA
Sally Elizabeth Scott	British
Amy Elizabeth Shapiro	USA
Mridula Shastri	Indian
Joan Sheanshang	USA
Irving Stanley Sigal	USA
Martin Bernard Carruthers Simpson	USA
Irja Syhnove Skabo	USA
Mary Edna Smith	USA
Cynthia Joan Smith	USA
James Alvin Smith	USA
Ingrid Anita Smith	British
Lynsey Anne Somerville	British
Rosaleen Leiter Somerville	British
Paul Somerville	British
John Somerville	British
John Charles Stevenson	British
Geraldine Anne Stevenson	British
Hannah Louise Stevenson	British
Rachel Stevenson	British
Charlotte Ann Stinnett	USA
Stacey Leanne Stinnett	USA
Michael Gary Stinnett	USA
James Ralph Stow	USA
Elia G. Stratis	USA
Anthony Selwyn Swan	Trinidadian
Flora MacDonald Margaret Swire	British
Marc Alex Tager	British
Hidekazu Tanaka	Japanese
Andrew Alexander Teran	Bolivian
Jonathan Ryan Thomas	USA
Lawanda Thomas	USA

Victim	Citizenship
Arva Anthony Thomas	USA
Mark Lawrence Tobin	USA
David William Trimmer-Smith	USA
Alexia Kathryn Tsairis	USA
Barry Joseph Valentino	USA
Thomas Floro Van-Tienhoven	Argentinian
Asaad Eidi Vejdany	USA
Milutin Velimirovich	USA
Nicholas Andreas Vrenios	USA
Peter Vulcu	USA
Raymond Ronald Wagner	USA
Janina Jozefa Waido	USA
Thomas Edwin Walker	USA
Kesha Weedon	USA
Jerome Lee Weston	USA
Jonathan White	USA
Stephanie Leigh Williams	USA
Brittany Leigh Williams	USA
George Waterson Williams	USA
Bonnie Leigh Williams	USA
Eric Jon Williams	USA
Miriam Luby Wolfe	USA
Chelsea Marie Woods	USA
Joe Nathan Woods	USA
Joe Nathan Woods, Jr.	USA
Dedera Lynn Woods	USA
Andrew Christopher Gillies-Wright	British
Mark James Zwynenburg	USA

(Violation of Title 18, United States Code, Sections 32(a)(2), 34 and 2)

COUNT THREE

1. The Grand Jury hereby re-alleges and incorporates by reference paragraphs One through Thirty-one of Count One of this Indictment.

2. On or about 21 December 1988, at an altitude of 31,000 feet, approximately in the vicinity of the town of Lockerbie, Scotland, and within the special aircraft jurisdiction of the United States, as defined by Title 49, United States Code Appendix, Section 1301(38), the Defendants ABDEL BASSET and LAMEN FHIMAH, together with others unknown to the Grand Jury, did wilfully and unlawfully damage and destroy, by means of an explosive device, aircraft number N739PA, a civil aircraft of the United States used, operated, and employed in overseas and foreign air commerce by Pan American World Airways as Pan Am Flight 103, en route to the United States from Heathrow Airport, London, United Kingdom, resulting in the deaths of two hundred seventy victims as specified in Count Two of this Indictment.

(Violation of Title 18, United States Code, Sections 32(a)(1), 34 and 2)

COUNT FOUR

1. The Grand Jury hereby re-alleges and incorporates by reference paragraphs One through Thirty-one of Count One of this Indictment.

2. On 21 December 1988, at an altitude of 31,000 feet, approximately in the vicinity of the town of Lockerbie, Scotland, the Defendants ABDEL BASSET and LAMEN FHIMAH, together with others unknown to the Grand Jury, did maliciously damage and destroy by means of an explosive, aircraft number N739PA, employed as Pan Am Flight 103, a vehicle used in foreign commerce, and in an activity affecting foreign commerce, which was en route to the United States from Heathrow Airport, London, United Kingdom.

3. On 21 December 1988, as a direct and proximate result of the damage and destruction of aircraft N739PA, above and within the town of Lockerbie, Scotland, and the surrounding area, the Defendants ABDEL BASSET and LAMEN FHIMAH, together with others unknown to the Grand Jury, did maliciously cause the deaths of the two hundred seventy persons identified in Count Two of this Indictment.

(Violation of Title 18, United States Code, Sections 844(i) and 2)

COUNTS FIVE THROUGH ONE HUNDRED NINETY-THREE

1. The Grand Jury hereby re-alleges and incorporates by reference paragraphs One through Thirty-one of Count One of this Indictment.

2. At all times material to the Indictment the persons identified as victims in Counts Five through One Hundred Ninety-Three were nationals of the United States as that term is defined by Title 8, United States Code, Section 1101(a)(22).

3. On or about 21 December 1988, outside the United States, in the town of Lockerbie, Scotland, and vicinity, within the United Kingdom and elsewhere, the Defendants ABDEL BASSET and LAMEN FHIMAH, and others unknown to the Grand Jury, did willfully, deliberately, maliciously and with premeditation and malice aforethought kill one hundred eighty-nine nationals of the United States who were the passengers and crew of the aircraft, and whose identities are reflected in the table set forth below:

Count	Victim
FIVE	John Michael Gerard Ahern
SIX	Sarah Margaret Aicher
SEVEN	John David Akerstrom
EIGHT	Thomas Joseph Ammerman
NINE	Martin Lewis Apfelbaum
TEN	Rachel Marie Asrelsky
ELEVEN	Judith Ellen Atkinson
TWELVE	William Garretson Atkinson III

Count	Victim
THIRTEEN	Jerry Don Avritt
FOURTEEN	Harry Michael Bainbridge
FIFTEEN	Julian MacBain Benello
SIXTEEN	Lawrence Ray Bennett
SEVENTEEN	Philip Vernon Bergstrom
EIGHTEEN	Michael Stuart Bernstein
NINETEEN	Steven Russell Berrell
TWENTY	Noelle Lydie Barti-Campbell
TWENTY-ONE	Surinder Mohan Bhatia
TWENTY-TWO	Kenneth John Bissett
TWENTY-THREE	Stephen John Boland
TWENTY-FOUR	Paula Marie Bouckley
TWENTY-FIVE	Nicole Elise Boulanger
TWENTY-SIX	Nicholas Bright
TWENTY-SEVEN	Colleen Renee Brunner
TWENTY-EIGHT	Michael Warren Buser
TWENTY-NINE	Warren Max Buser
THIRTY	Steven Lee Butler
THIRTY-ONE	Valerie Canady
THIRTY-TWO	Gregory Joseph Capasso
THIRTY-THREE	Timothy Michael Cardwell
THIRTY-FOUR	Richard Anthony Cawley
THIRTY-FIVE	Frank Ciulla
THIRTY-SIX	Theodora Eugenia Cohen
THIRTY-SEVEN	Jason Michael Coker
THIRTY-EIGHT	Eric Michael Coker
THIRTY-NINE	Gary Leonard Colasanti
FORTY	Scott Marsh Cory
FORTY-ONE	Willis Larry Coursey
FORTY-TWO	Patricia Mary Coyle
FORTY-THREE	John Binning Cummock
FORTY-FOUR	Joseph Patrick Curry
FORTY-FIVE	William Alan Daniels
FORTY-SIX	Gretchen Joyce Dater
FORTY-SEVEN	Shannon Davis
FORTY-EIGHT	Joyce Christine Dimauro
FORTY-NINE	Shanti Dixit
FIFTY	David Scott Dornstein
FIFTY-ONE	Michael Joseph Doyle
FIFTY-TWO	Edgar Howard Eggleston III
FIFTY-THREE	Turhan Ergin
FIFTY-FOUR	Charles Thomas Fisher IV
FIFTY-FIVE	John Patrick Flynn
FIFTY-SIX	Arthur Jay Fondiler
FIFTY-SEVEN	Robert Gerard Fortune
FIFTY-EIGHT	Stacie Denise Franklin
FIFTY-NINE	Diane Ann Boatman-Fuller
SIXTY	James Ralph Fuller

Count	Victim
SIXTY-ONE	Amy Beth Gallagher
SIXTY-TWO	Matthew Kevin Gannon
SIXTY-THREE	Kenneth Raymond Garczynski
SIXTY-FOUR	Paul Isaac Garrett
SIXTY-FIVE	Kenneth James Gibson
SIXTY-SIX	William David Giebler
SIXTY-SEVEN	Linda Susan Gordon-Gorgacz
SIXTY-EIGHT	Anne Madelene Gorgacz
SIXTY-NINE	Loretta Anne Gorgacz
SEVENTY	David Jay Gould
SEVENTY-ONE	Andre Nikolai Guevorgian
SEVENTY-TWO	Lorraine Frances Halsch
SEVENTY-THREE	Lynne Carol Hartunian
SEVENTY-FOUR	Pamela Elaine Herbert
SEVENTY-FIVE	Rodney Peter Hilbert
SEVENTY-SIX	Katherine Augusta Hollister
SEVENTY-SEVEN	Melina Kristina Hudson
SEVENTY-EIGHT	Karen Lee Hunt
SEVENTY-NINE	Roger Elwood Hurst
EIGHTY	Khaled Nazir Jaafar
EIGHTY-ONE	Robert Van Houten Jeck
EIGHTY-TWO	Kathleen Mary Jermyn
EIGHTY-THREE	Beth Ann Johnson
EIGHTY-FOUR	Mary Lincoln Johnson
EIGHTY-FIVE	Timothy Baron Johnson
EIGHTY-SIX	Christopher Andrew Jones
EIGHTY-SEVEN	Julianne Frances Kelly
EIGHTY-EIGHT	Jay Joseph Kingham
EIGHTY-NINE	Patricia Ann Klein
NINETY	Gregory Kosmowski
NINETY-ONE	Ronald Albert Lariviere
NINETY-TWO	Robert Milton Leckburg
NINETY-THREE	William Chase Leyrer
NINETY-FOUR	Wendy Anne Lincoln
NINETY-FIVE	Alexander Lowenstein
NINETY-SIX	Lloyd David Ludlow
NINETY-SEVEN	William Edward Mack
NINETY-EIGHT	Douglas Eugene Malicote
NINETY-NINE	Wendy Gay Malicote
ONE HUNDRED	Elizabeth Lillian Marek
ONE HUNDRED ONE	Louis Anthony Marengo
ONE HUNDRED TWO	Diane Marie Maslowski
ONE HUNDRED THREE	Lilibeth Tobila MacAlolooy
ONE HUNDRED FOUR	James Bruce MacQuarrie
ONE HUNDRED FIVE	Daniel Emmet McCarthy
ONE HUNDRED SIX	Robert Eugene McCollum
ONE HUNDRED SEVEN	Charles Dennis McKee
ONE HUNDRED EIGHT	Bernard Joseph McLaughlin

Count	Victim
ONE HUNDRED NINE	Jane Susan Melber
ONE HUNDRED TEN	Suzanne Marie Miasga
ONE HUNDRED ELEVEN	Joseph Kenneth Miller
ONE HUNDRED TWELVE	Jewel Courtney Mitchell
ONE HUNDRED THIRTEEN	Richard Paul Monetti
ONE HUNDRED FOURTEEN	Jane Ann Morgan
ONE HUNDRED FIFTEEN	Eva Ingeborg Morson
ONE HUNDRED SIXTEEN	John Mulroy
ONE HUNDRED SEVENTEEN	Sean Kevin Mulroy
ONE HUNDRED EIGHTEEN	Karen Elizabeth Noonan
ONE HUNDRED NINETEEN	Daniel Emmett O'Connor
ONE HUNDRED TWENTY	Mary Denice O'Neill
ONE HUNDRED TWENTY-ONE	Anne Lindsey Otenasek
ONE HUNDRED TWENTY-TWO	Robert Plack Owens
ONE HUNDRED TWENTY-THREE	Martha Owens
ONE HUNDRED TWENTY-FOUR	Sarah Rebecca Owens
ONE HUNDRED TWENTY-FIVE	Laura Abigail Owens
ONE HUNDRED TWENTY-SIX	Robert Italo Pagnucco
ONE HUNDRED TWENTY-SEVEN	Christos Michael Papadopoulos
ONE HUNDRED TWENTY-EIGHT	Peter Raymond Peirce
ONE HUNDRED TWENTY-NINE	Michael Cosimo Pescatore
ONE HUNDRED THIRTY	Sarah Susannah Buchanan-Philipps
ONE HUNDRED THIRTY-ONE	Frederick Sandford Phillips
ONE HUNDRED THIRTY-TWO	James Andrew Campbell Pitt
ONE HUNDRED THIRTY-THREE	David Platt
ONE HUNDRED THIRTY-FOUR	Walter Leonard Porter
ONE HUNDRED THIRTY-FIVE	Pamela Lynn Posen
ONE HUNDRED THIRTY-SIX	William Pugh
ONE HUNDRED THIRTY-SEVEN	Suruchi Rattan
ONE HUNDRED THIRTY-EIGHT	Anmol Rattan
ONE HUNDRED THIRTY-NINE	Garima Rattan
ONE HUNDRED FORTY	Anita Lynn Reeves
ONE HUNDRED FORTY-ONE	Mark Alan Rein
ONE HUNDRED FORTY-TWO	Jocelyn Reina
ONE HUNDRED FORTY-THREE	Diane Marie Rencevicz
ONE HUNDRED FORTY-FOUR	Louise Ann Rogers
ONE HUNDRED FORTY-FIVE	Saul Mark Rosen
ONE HUNDRED FORTY-SIX	Andrea Victoria Rosenthal
ONE HUNDRED FORTY-SEVEN	Daniel Peter Rosenthal
ONE HUNDRED FORTY-EIGHT	Myra Josephine Royal
ONE HUNDRED FORTY-NINE	Elyse Jeanne Saraceni
ONE HUNDRED FIFTY	Scott Christopher Saunders
ONE HUNDRED FIFTY-ONE	Robert Thomas Schlageter
ONE HUNDRED FIFTY-TWO	Thomas Britton Schultz
ONE HUNDRED FIFTY-THREE	Amy Elizabeth Shapiro
ONE HUNDRED FIFTY-FOUR	Joan Sheanshang
ONE HUNDRED FIFTY-FIVE	Irving Stanley Sigal
ONE HUNDRED FIFTY-SIX	Martin Bernard Carruthers-Simpson

Count	Victim
ONE HUNDRED FIFTY-SEVEN	Irja Syhnove Skabo
ONE HUNDRED FIFTY-EIGHT	Mary Edna Smith
ONE HUNDRED FIFTY-NINE	Cynthia Joan Smith
ONE HUNDRED SIXTY	James Alvin Smith
ONE HUNDRED SIXTY-ONE	Charlotte Ann Stinnett
ONE HUNDRED SIXTY-TWO	Stacey Leanne Stinnett
ONE HUNDRED SIXTY-THREE	Michael Gary Stinnett
ONE HUNDRED SIXTY-FOUR	James Ralph Stow
ONE HUNDRED SIXTY-FIVE	Elia G. Stratis
ONE HUNDRED SIXTY-SIX	Jonathan Ryan Thomas
ONE HUNDRED SIXTY-SEVEN	Lawanda Thomas
ONE HUNDRED SIXTY-EIGHT	Arva Anthony Thomas
ONE HUNDRED SIXTY-NINE	Mark Lawrence Tobin
ONE HUNDRED SEVENTY	David William Trimmer-Smith
ONE HUNDRED SEVENTY-ONE	Alexia Kathryn Tsairis
ONE HUNDRED SEVENTY-TWO	Barry Joseph Valentino
ONE HUNDRED SEVENTY-THREE	Asaad Eidi Vejdany
ONE HUNDRED SEVENTY-FOUR	Milutin Velimirovich
ONE HUNDRED SEVENTY-FIVE	Nicholas Andreas Vrenios
ONE HUNDRED SEVENTY-SIX	Peter Vulcu
ONE HUNDRED SEVENTY-SEVEN	Raymond Ronald Wagner
ONE HUNDRED SEVENTY-EIGHT	Janina Jozefa Waido
ONE HUNDRED SEVENTY-NINE	Thomas Edwin Walker
ONE HUNDRED EIGHTY	Kesha Weedon
ONE HUNDRED EIGHTY-ONE	Jerome Lee Weston
ONE HUNDRED EIGHTY-TWO	Jonathan White
ONE HUNDRED EIGHTY-THREE	Stephanie Leigh Williams
ONE HUNDRED EIGHTY-FOUR	Brittany Leigh Williams
ONE HUNDRED EIGHTY-FIVE	George Waterson Williams
ONE HUNDRED EIGHTY-SIX	Bonnie Leigh Williams
ONE HUNDRED EIGHTY-SEVEN	Eric Jon Williams
ONE HUNDRED EIGHTY-EIGHT	Miriam Luby Wolfe
ONE HUNDRED EIGHTY-NINE	Chelsea Marie Woods
ONE HUNDRED NINETY	Joe Nathan Woods
ONE HUNDRED NINETY-ONE	Joe Nathan Woods, Jr.
ONE HUNDRED NINETY-TWO	Dedera Lynn Woods
ONE HUNDRED NINETY-THREE	Mark James Zwynenburg

(Violation of Title 18, United States Code, Sections 2331 and 2)

A TRUE BILL:

Foreperson.

(Signed) G. B. Stephens
Attorney for the United States in
and for the District of Columbia

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c. Security Council: Resolutions on Terrorism

(1) S/RES/1192, August 27, 1998

RESOLUTION 1192 (1998)

Adopted by the Security Council at its 3920th meeting, on 27 August 1998

The Security Council,

Recalling its resolutions 731 (1992) of 21 January 1992, 748 (1992) of 31 March 1992 and 883 (1993) of 11 November 1993,

Noting the report of the independent experts appointed by the Secretary-General (S/1997/991),

Having regard to the contents of the letter dated 24 August 1998 from the Acting Permanent Representatives of the United Kingdom of Great Britain and Northern Ireland and of the United States of America to the Secretary-General (S/1998/795),

Noting also, in light of the above resolutions, the communications of the Organization of African Unity, the League of Arab States, the Non-Aligned Movement and the Islamic Conference (S/1994/373, S/1995/834, S/1997/35, S/1997/273, S/1997/406, S/1997/497, S/1997/529) as referred to in the letter of 24 August 1998,

Acting under Chapter VII of the Charter of the United Nations,

1. Demands once again that the Libyan Government immediately comply with the above-mentioned resolutions;

2. Welcomes the initiative for the trial of the two persons charged with the bombing of Pan Am flight 103 ("the two accused") before a Scottish court sitting in the Netherlands, as contained in the letter dated 24 August 1998 from the Acting Permanent Representatives of the United Kingdom of Great Britain and Northern Ireland and of the United States of America ("the initiative") and its attachments, and the willingness of the Government of the Netherlands to cooperate in the implementation of the initiative;

3. Calls upon the Government of the Netherlands and the Government of the United Kingdom to take such steps as are necessary to implement the initiative, including the conclusion of arrangements with a view to enabling the court described in paragraph 2 to exercise jurisdiction in the terms of the intended Agreement between the two Governments, attached to the said letter of 24 August 1998;

4. Decides that all States shall cooperate to this end, and in particular that the Libyan Government shall ensure the appearance in the Netherlands of the two accused for the purpose of trial by the court described in paragraph 2, and that the Libyan Government shall ensure that any evidence or witnesses in Libya are, upon the request of the court, promptly made available at the court in the Netherlands for the purpose of the trial;

5. Requests the Secretary-General, after consultation with the Government of the Netherlands, to assist the Libyan Government

with the physical arrangements for the safe transfer of the two accused from Libya direct to the Netherlands;

6. Invites the Secretary-General to nominate international observers to attend the trial;

7. Decides further that, on the arrival of the two accused in the Netherlands, the Government of the Netherlands shall detain the two accused pending their transfer for the purpose of trial before the court described in paragraph 2;

8. Reaffirms that the measures set forth in its resolutions 748 (1992) and 883 (1993) remain in effect and binding on all Member States, and in this context reaffirms the provisions of paragraph 16 of resolution 883 (1993), and decides that the aforementioned measures shall be suspended immediately if the Secretary-General reports to the Council that the two accused have arrived in the Netherlands for the purpose of trial before the court described in paragraph 2 or have appeared for trial before an appropriate court in the United Kingdom or the United States, and that the Libyan Government has satisfied the French judicial authorities with regard to the bombing of UTA 772;

9. Expresses its intention to consider additional measures if the two accused have not arrived or appeared for trial promptly in accordance with paragraph 8;

10. Decides to remain seized of the matter.

(2) S/RES/1189 (1998), August 13, 1998

RESOLUTION 1189 (1998)

Adopted by the Security Council at its 3915th meeting, on 13 August 1998

The Security Council,

Deeply disturbed by the indiscriminate and outrageous acts of international terrorism that took place on 7 August 1998 in Nairobi, Kenya and Dar-es-Salaam, Tanzania,

Condemning such acts which have a damaging effect on international relations and jeopardize the security of States,

Convinced that the suppression of acts of international terrorism is essential for the maintenance of international peace and security, and reaffirming the determination of the international community to eliminate international terrorism in all its forms and manifestations,

Also reaffirming the obligations of Member States under the Charter of the United Nations,

Stressing that every Member State has the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts,

Mindful of General Assembly resolution 52/164 of 15 December 1997 on the International Convention for the Suppression of Terrorist Bombings,

Recalling that, in the statement issued on 31 January 1992 (S/23500) on the occasion of the meeting of the Security Council at the level of Heads of State and Government, the Council expressed its deep concern over acts of international terrorism, and emphasized the need for the international community to deal effectively with all such criminal acts,

Also stressing the need to strengthen international cooperation between States in order to adopt practical and effective measures to prevent, combat and eliminate all forms of terrorism affecting the international community as a whole,

Commending the responses of the Governments of Kenya, Tanzania and the United States of America to the terrorist bomb attacks in Kenya and Tanzania,

Determined to eliminate international terrorism,

1. Strongly condemns the terrorist bomb attacks in Nairobi, Kenya and Dar-es-Salaam, Tanzania on 7 August 1998 which claimed hundreds of innocent lives, injured thousands of people and caused massive destruction to property;

2. Expresses its deep sorrow, sympathy and condolences to the families of the innocent victims of the terrorist bomb attacks during this difficult time;

3. Calls upon all States and international institutions to cooperate with and provide support and assistance to the ongoing inves-

tigations in Kenya, Tanzania and the United States to apprehend the perpetrators of these cowardly criminal acts and to bring them swiftly to justice;

4. Expresses its sincere gratitude to all States, international institutions and voluntary organizations for their encouragement and timely response to the requests for assistance from the Governments of Kenya and Tanzania, and urges them to assist the affected countries, especially in the reconstruction of infrastructure and disaster preparedness;

5. Calls upon all States to adopt, in accordance with international law and as a matter of priority, effective and practical measures for security cooperation, for the prevention of such acts of terrorism, and for the prosecution and punishment of their perpetrators;

6. Decides to remain seized of the matter.

(3) S/RES/1070, August 16, 1996*

RESOLUTION 1070 (1996)*

Adopted by the Security Council at its 3690th meeting, on 16 August 1996

The Security Council,

Recalling its resolutions 1044 (1996) of 31 January 1996 and 1054 (1996) of 26 April 1996,

Having considered the report of the Secretary-General of 10 July 1996 (S/1996/541 and Add.1, 2 and 3),

Taking note of the letters of 31 May 1996 (S/1996/402), 24 June 1996 (S/1996/464) and 2 July 1996 (S/1996/513) from the Permanent Representative of the Sudan,

Taking note also of the letter of 10 July 1996 (S/1996/538) from the Permanent Representative of the Federal Democratic Republic of Ethiopia,

Gravely alarmed at the terrorist assassination attempt on the life of the President of the Arab Republic of Egypt, in Addis Ababa, Ethiopia, on 26 June 1995, and convinced that those responsible for that act must be brought to justice,

Taking note that the statements of the Central Organ of the Organization of African Unity (OAU) Mechanism for Conflict Prevention, Management and Resolution of 11 September 1995, and of 19 December 1995 (S/1996/10, annexes I and II) considered the attempt on the life of President Mubarak as aimed, not only at the President of the Arab Republic of Egypt, and not only at the sovereignty, integrity and stability of Ethiopia, but also at Africa as a whole,

Regretting the fact that the Government of Sudan has not yet complied with the requests of the Central Organ of the OAU set out in those statements,

Taking note of the continued efforts of the OAU to ensure Sudan's compliance with the requests of the Central Organ of the OAU, and regretting that the Government of Sudan has not responded adequately to the efforts of the OAU,

Deeply alarmed that the Government of Sudan has failed to comply with the requests set out in paragraph 4 of resolution 1044 (1996) as reaffirmed in paragraph 1 of resolution 1054 (1996),

Reaffirming that the suppression of acts of international terrorism, including those in which States are involved is essential for the maintenance of international peace and security,

Determining that the non-compliance by the Government of Sudan with the requests set out in paragraph 4 of resolution 1044 (1996) as reaffirmed in paragraph 1 of resolution 1054 (1996) constitutes a threat to international peace and security,

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* Reissued for technical reasons.

Determined to eliminate international terrorism and to ensure the effective implementation of resolutions 1044 (1996) and 1054 (1996), and to that end acting under Chapter VII of the Charter of the United Nations,

1. Demands once again that the Government of Sudan comply fully and without further delay with the requests set out in paragraph 4 of resolution 1044 (1996) as reaffirmed in paragraph 1 of resolution 1054 (1996);

2. Notes the steps taken by some Member States to give effect to the provisions set out in paragraph 3 of resolution 1054 (1996), and requests those States that have not yet done so to report to the Secretary-General as soon as possible on the steps they have taken to that end;

3. Decides that all States shall deny aircraft permission to take off from, land in, or overfly their territories if the aircraft is registered in Sudan, or owned, leased or operated by or on behalf of Sudan Airways or by any undertaking, wherever located or organized, which is substantially owned or controlled by Sudan Airways, or owned, leased or operated by the Government or public authorities of Sudan, or by an undertaking, wherever located or organized, which is substantially owned or controlled by the Government or public authorities of Sudan;

4. Further decides that it shall, 90 days after the date of adoption of this resolution, determine the date of entry into force of the provisions set out in paragraph 3 above and all aspects of the modalities of its implementation, unless the Council decides before then, on the basis of a report presented by the Secretary-General, on the compliance of Sudan with the demand in paragraph 1 above;

5. Requests the Secretary-General, by 15 November 1996, to submit a report on the compliance of Sudan with the provisions of paragraph 1 above;

6. Decides to remain actively seized of the matter.

(4) S/RES/1054, April 26, 1996

RESOLUTION 1054 (1996)

Adopted by the Security Council at its 3660th meeting, on 26 April 1996

The Security Council,

Reaffirming its resolution 1044 (1996) of 31 January 1996,

Taking note of the report of the Secretary-General of 11 March 1996 (S/1996/179) submitted pursuant to paragraph 7 of resolution 1044 (1996) and the conclusions contained therein,

Gravely alarmed at the terrorist assassination attempt on the life of the President of the Arab Republic of Egypt, in Addis Ababa, Ethiopia, on 26 June 1995, and convinced that those responsible for that act must be brought to justice,

Taking note that the statements of the Organization of African Unity (OAU) Mechanism for Conflict Prevention, Management and Resolution of 11 September 1995, and of 19 December 1995 (S/1996/10, annexes I and II) considered the attempt on the life of President Mubarak as aimed, not only at the President of the Arab Republic of Egypt, and not only at the sovereignty, integrity and stability of Ethiopia, but also at Africa as a whole,

Regretting the fact that the Government of Sudan has not yet complied with the requests of the Central Organ of the OAU set out in those statements,

Taking note of the continued effort of the OAU Secretary-General to ensure Sudan's compliance with the requests of the Central Organ of the OAU,

Taking note also, with regret, that the Government of Sudan has not responded adequately to the efforts of the OAU,

Deeply alarmed that the Government of Sudan has failed to comply with the requests set out in paragraph 4 of resolution 1044 (1996),

Reaffirming that the suppression of acts of international terrorism, including those in which States are involved is essential for the maintenance of international peace and security,

Determining that the non-compliance by the Government of Sudan with the requests set out in paragraph 4 of resolution 1044 (1996) constitutes a threat to international peace and security,

Determined to eliminate international terrorism and to ensure effective implementation of resolution 1044 (1996) and to that end acting under Chapter VII of the Charter of the United Nations,

1. Demands that the Government of Sudan comply without further delay with the requests set out in paragraph 4 of resolution 1044 (1996) by:

(a) Taking immediate action to ensure extradition to Ethiopia for prosecution of the three suspects sheltered in Sudan and wanted in connection with the assassination attempt of 26 June 1995 on

the life of the President of the Arab Republic of Egypt in Addis Ababa, Ethiopia; and

(b) Desisting from engaging in activities of assisting, supporting and facilitating terrorist activities and from giving shelter and sanctuary to terrorist elements; and henceforth acting in its relations with its neighbours and with others in full conformity with the Charter of the United Nations and with the Charter of the OAU;

2. Decides that the provisions set out in paragraph 3 below shall come into force at 00.01 Eastern Standard Time on 10 May 1996, and shall remain in force until the Council determines that the Government of Sudan has complied with paragraph 1 above;

3. Decides that all States shall:

(a) Significantly reduce the number and the level of the staff at Sudanese diplomatic missions and consular posts and restrict or control the movement within their territory of all such staff who remain;

(b) Take steps to restrict the entry into or transit through their territory of members of the Government of Sudan, officials of that Government and members of the Sudanese armed forces;

4. Calls upon all international and regional organizations not to convene any conference in Sudan;

5. Calls upon all States, including States not members of the United Nations and the United Nations specialized agencies to act strictly in conformity with this resolution, notwithstanding the existence of any rights granted or obligations conferred or imposed by any international agreement or of any contract entered into or any licence or permit granted prior to the entry into force of the provisions set out in paragraph 3 above;

6. Requests States to report to the Secretary-General of the United Nations within 60 days from the adoption of this resolution on the steps they have taken to give effect to the provisions set out in paragraph 3 above;

7. Requests the Secretary-General to submit an initial report to the Council within 60 days of the date specified in paragraph 2 above on the implementation of this resolution;

8. Decides to re-examine the matter, 60 days after the date specified in paragraph 2 above and to consider, on the basis of the facts established by the Secretary-General, whether Sudan has complied with the demands in paragraph 1 above and, if not, whether to adopt further measures to ensure its compliance;

9. Decides to remain seized of the matter.

(5) S/RES/1044, January 31, 1996

RESOLUTION 1044 (1996)

Adopted by the Security Council at its 3627th meeting, on 31 January 1996

The Security Council,

Deeply disturbed by the world-wide persistence of acts of international terrorism in all its forms which endanger or take innocent lives, have a deleterious effect on international relations and jeopardize the security of States,

Recalling the statement made by the President of the Security Council on 31 January 1992 (S/23500) when the Council met at the level of Heads of State and Government in which the members of the Council expressed their deep concern over acts of international terrorism and emphasized the need for the international community to deal effectively with all such acts,

Recalling also the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, opened for signature at New York on 14 December 1973,

Stressing the imperative need to strengthen international cooperation between States in order to make and adopt practical and effective measures to prevent, combat and eliminate all forms of terrorism that affect the international community as a whole,

Convinced that the suppression of acts of international terrorism, including those in which States are involved, is an essential element for the maintenance of international peace and security,

Gravely alarmed at the terrorist assassination attempt on the life of the President of the Arab Republic of Egypt, in Addis Ababa, Ethiopia, on 26 June 1995, and convinced that those responsible for that act must be brought to justice,

Taking note that the Third Extraordinary Session of the Organization of African Unity (OAU) Mechanism for Conflict Prevention, Management and Resolution of 11 September 1995, considered that attack as aimed, not only at the President of the Arab Republic of Egypt, and not only at the sovereignty, integrity and stability of Ethiopia, but also at Africa as a whole,

Taking note also of the statements of the Central Organ of the OAU Mechanism of 11 September 1995 and of 19 December 1995 and supporting the implementation of the requests contained therein,

Regretting the fact that the Government of the Sudan has not yet complied with the requests of the Central Organ of the OAU set out in those statements,

Noting the letter from the Permanent Representative of Ethiopia of 9 January 1996 (S/1996/10) to the President of the Security Council,

Noting also the letters from the Permanent Representative of the Sudan of 11 January 1996 (S/1996/22) and 12 January 1996 (S/1996/25) to the President of the Council,

1. Condemns the terrorist assassination attempt on the life of the President of the Arab Republic of Egypt in Addis Ababa, Ethiopia, on 26 June 1995;

2. Strongly deplores the flagrant violation of the sovereignty and integrity of Ethiopia and the attempt to disturb the peace and security of Ethiopia and the region as a whole;

3. Commends the efforts of the Government of Ethiopia to resolve this issue through bilateral and regional arrangements;

4. Calls upon the Government of the Sudan to comply with the requests of the Organization of African Unity without further delay to:

(a) Undertake immediate action to extradite to Ethiopia for prosecution the three suspects sheltering in the Sudan and wanted in connection with the assassination attempt on the basis of the 1964 Extradition Treaty between Ethiopia and the Sudan;

(b) Desist from engaging in activities of assisting, supporting and facilitating terrorist activities and from giving shelter and sanctuaries to terrorist elements and act in its relations with its neighbours and with others in full conformity with the Charter of the United Nations and with the Charter of the Organization of African Unity;

5. Urges the international community to encourage the Government of the Sudan to respond fully and effectively to the OAU requests;

6. Welcomes the efforts of the Secretary-General of the OAU aimed at the implementation of the relevant provisions of the statements of the Central Organ of the OAU Mechanism of 11 September 1995 and of 19 December 1995, and supports the OAU in its continued efforts to implement its decisions;

7. Requests the Secretary-General in consultation with the OAU to seek the cooperation of the Government of the Sudan in the implementation of this resolution and to report to the Council within 60 days;

8. Decides to remain seized of the matter.

(6) S/RES/883, November 11, 1993

RESOLUTION 883 (1993)

Adopted by the Security Council at its 3312th meeting, on 11 November 1993

The Security Council,

Reaffirming its resolutions 731 (1992) of 21 January 1992 and 748 (1992) of 31 March 1992,

Deeply concerned that after more than twenty months the Libyan Government has not fully complied with these resolutions,

Determined to eliminate international terrorism,

Convinced that those responsible for acts of international terrorism must be brought to justice,

Convinced also that the suppression of acts of international terrorism, including those in which States are directly or indirectly involved, is essential for the maintenance of international peace and security,

Determining, in this context, that the continued failure by the Libyan Government to demonstrate by concrete actions its renunciation of terrorism, and in particular its continued failure to respond fully and effectively to the requests and decisions in resolutions 731 (1992) and 748 (1992), constitute a threat to international peace and security,

Taking note of the letters to the Secretary-General dated 29 September and 1 October 1993 from the Secretary of the General People's Committee for Foreign Liaison and International Cooperation of Libya (S/26523) and his speech in the General Debate at the forty-eighth session of the General Assembly (A/48/PV.20) in which Libya stated its intention to encourage those charged with the bombing of Pan Am 103 to appear for trial in Scotland and its willingness to cooperate with the competent French authorities in the case of the bombing of UTA 772,

Expressing its gratitude to the Secretary-General for the efforts he has made pursuant to paragraph 4 of resolution 731 (1992),

Recalling the right of States, under Article 50 of the Charter, to consult the Security Council where they find themselves confronted with special economic problems arising from the carrying out of preventive or enforcement measures,

Acting under Chapter VII of the Charter,

1. Demands once again that the Libyan Government comply without any further delay with resolutions 731 (1992) and 748 (1992);

2. Decides, in order to secure compliance by the Libyan Government with the decisions of the Council, to take the following measures, which shall come into force at 00.01 EST on 1 December 1993 unless the Secretary-General has reported to the Council in the terms set out in paragraph 16 below;

3. Decides that all States in which there are funds or other financial resources (including funds derived or generated from property) owned or controlled, directly or indirectly, by:

(a) the Government or public authorities of Libya, or

(b) any Libyan undertaking,

shall freeze such funds and financial resources and ensure that neither they nor any other funds and financial resources are made available, by their nationals or by any persons within their territory, directly or indirectly, to or for the benefit of the Government or public authorities of Libya or any Libyan undertaking, which for the purposes of this paragraph, means any commercial, industrial or public utility undertaking which is owned or controlled, directly or indirectly, by

(i) the Government or public authorities of Libya,

(ii) any entity, wherever located or organized, owned or controlled by (i), or

(iii) any person identified by States as acting on behalf of (i) or (ii) for the purposes of this resolution;

4. Further decides that the measures imposed by paragraph 3 above do not apply to funds or other financial resources derived from the sale or supply of any petroleum or petroleum products, including natural gas and natural gas products, or agricultural products or commodities, originating in Libya and exported therefrom after the time specified in paragraph 2 above, provided that any such funds are paid into separate bank accounts exclusively for these funds;

5. Decides that all States shall prohibit any provision to Libya by their nationals or from their territory of the items listed in the annex to this resolution, as well as the provision of any types of equipment, supplies and grants of licensing arrangements for the manufacture or maintenance of such items;

6. Further decides that, in order to make fully effective the provisions of resolution 748 (1992), all States shall:

(a) require the immediate and complete closure of all Libyan Arab Airlines offices within their territories;

(b) prohibit any commercial transactions with Libyan Arab Airlines by their nationals or from their territory, including the honouring or endorsement of any tickets or other documents issued by that airline;

(c) prohibit, by their nationals or from their territory, the entering into or renewal of arrangements for:

(i) the making available, for operation within Libya, of any aircraft or aircraft components, or

(ii) the provision of engineering or maintenance servicing of any aircraft or aircraft components within Libya;

(d) prohibit, by their nationals or from their territory, the supply of any materials destined for the construction, improvement or maintenance of Libyan civilian or military airfields and associated facilities and equipment, or of any engineering or other services or components destined for the maintenance of any Libyan civil or military airfields or associated facilities and equipment, except emergency equipment and equipment and services directly related to civilian air traffic control;

(e) prohibit, by their nationals or from their territory, any provision of advice, assistance, or training to Libyan pilots, flight engineers, or aircraft and ground maintenance personnel associated with the operation of aircraft and airfields within Libya;

(f) prohibit, by their nationals or from their territory, any renewal of any direct insurance for Libyan aircraft;

7. Confirms that the decision taken in resolution 748 (1992) that all States shall significantly reduce the level of the staff at Libyan diplomatic missions and consular posts includes all missions and posts established since that decision or after the coming into force of this resolution;

8. Decides that all States, and the Government of Libya, shall take the necessary measures to ensure that no claim shall lie at the instance of the Government or public authorities of Libya, or of any Libyan national, or of any Libyan undertaking as defined in paragraph 3 of this resolution, or of any person claiming through or for the benefit of any such person or undertaking, in connection with any contract or other transaction or commercial operation where its performance was affected by reason of the measures imposed by or pursuant to this resolution or related resolutions;

9. Instructs the Committee established by resolution 748 (1992) to draw up expeditiously guidelines for the implementation of paragraphs 3 to 7 of this resolution, and to amend and supplement, as appropriate, the guidelines for the implementation of resolution 748 (1992), especially its paragraph 5 (a);

10. Entrusts the Committee established by resolution 748 (1992) with the task of examining possible requests for assistance under the provisions of Article 50 of the Charter of the United Nations and making recommendations to the President of the Security Council for appropriate action;

11. Affirms that nothing in this resolution affects Libya's duty scrupulously to adhere to all of its obligations concerning servicing and repayment of its foreign debt;

12. Calls upon all States, including States not Members of the United Nations, and all international organizations, to act strictly in accordance with the provisions of the present resolution, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted prior to the effective time of this resolution;

13. Requests all States to report to the Secretary-General by 15 January 1994 on the measures they have instituted for meeting the obligations set out in paragraphs 3 to 7 above;

14. Invites the Secretary-General to continue his role as set out in paragraph 4 of resolution 731 (1992);

15. Calls again upon all Member States individually and collectively to encourage the Libyan Government to respond fully and effectively to the requests and decisions in resolutions 731 (1992) and 748 (1992);

16. Expresses its readiness to review the measures set forth above and in resolution 748 (1992) with a view to suspending them immediately if the Secretary-General reports to the Council that the Libyan Government has ensured the appearance of those charged with the bombing of Pan Am 103 for trial before the appro-

priate United Kingdom or United States court and has satisfied the French judicial authorities with respect to the bombing of UTA 772, and with a view to lifting them immediately when Libya complies fully with the requests and decisions in resolutions 731 (1992) and 748 (1992); and requests the Secretary-General, within 90 days of such suspension, to report to the Council on Libya's compliance with the remaining provisions of its resolutions 731 (1992) and 748 (1992) and, in the case of non-compliance, expresses its resolve to terminate immediately the suspension of thesemeasures;

17. Decides to remain seized of the matter.

ANNEX

The following are the items referred to in paragraph 5 of this resolution:

I. Pumps of medium or large capacity whose capacity is equal to or larger than 350 cubic metres per hour and drivers (gas turbines and electric motors) designed for use in the transportation of crude oil and natural gas

II. Equipment designed for use in crude oil export terminals:

—Loading buoys or single point moorings (spm)

—Flexible hoses for connection between underwater manifolds (plem) and single point mooring and floating loading hoses of large sizes (from 12″ to 16″)

—Anchor chains

III. Equipment not specially designed for use in crude oil export terminals but which because of their large capacity can be used for this purpose:

—Loading pumps of large capacity (4,000 m3/h) and small head (10 bars)

—Boosting pumps within the same range of flow rates

—Inline pipe line inspection tools and cleaning devices (i.e. pigging tools) (16″ and above)

—Metering equipment of large capacity (1,000 m3/h and above)

IV. Refinery equipment:

—Boilers meeting American Society of Mechanical Engineers 1 standards

—Furnaces meeting American Society of Mechanical Engineers 8 standards

—Fractionation columns meeting American Society of Mechanical Engineers 8 standards

—Pumps meeting American Petroleum Institute 610 standards

—Catalytic reactors meeting American Society of Mechanical Engineers 8 standards

—Prepared catalysts, including the following:

Catalysts containing platinum

Catalysts containing molybdenum

V. Spare parts destined for the items in I to IV above.

(7) S/RES/748, March 31, 1992

RESOLUTION 748 (1992)

Adopted by the Security Council at its 3063rd meeting, on 31 March 1992

The Security Council,

Reaffirming its resolution 731 (1992) of 21 January 1992,

Noting the reports of the Secretary-General (S/23574) and S/23672),

Deeply concerned that the Libyan Government has still not provided a full and effective response to the requests in its resolution 731 of 21 January 1992,

Convinced that the suppression of acts of international terrorism, including those in which States are directly or indirectly involved, is essential for the maintenance of international peace and security,

Recalling that in the statement issued on 31 January 1992 on the occasion of the meeting of the Security Council at the levels of Heads of State and Government the members of the Council expressed their deep concern over acts of international terrorism and emphasized the need for the international community to deal effectively with all such acts,

Reaffirming that, in accordance with the principle in Article 2, paragraph 4, of the Charter of the United Nations, every State has the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when such acts involve a threat or use of force,

Determining in this context that the failure by the Libyan Government to demonstrate, by concrete actions its renunciation of terrorism and in particular its continued failure to respond fully and effectively to the requests in resolution 731 (1992), constitute a threat to international peace and security,

Determined to eliminate international terrorism,

Recalling the right of States, under Article 50 of the Charter, to consult the Security Council where they find themselves confronted with special economic problems arising from the carrying out of preventive or enforcement measures,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* that the Libyan Government must now comply without any further delay with paragraph 3 of resolution 731 (1992) regarding the requests contained in documents S/23306, S/23308 and S/23309;

2. *Decides also* that the Libyan Government must commit itself definitively to cease all forms of terrorist action and all assistance to terrorist groups and that it must promptly, by concrete actions, demonstrate its renunciation of terrorism;

3. *Decides that* on 15 April 1992 all States shall adopt the measures set out below, which shall apply until the Security Council decides that the Libyan Government has complied with paragraphs 1 and 2 above:

4. *Decides that all States shall:*

(a) Deny permission to any aircraft to take off from, land in or overfly their territory if it is destined to land in or has taken off from the territory of Libya, unless the particular flight has been approved on grounds of significant humanitarian need by the Committee established by paragraph 9 below;

(b) Prohibit, by their nationals or from their territory, the supply of any aircraft or aircraft components to Libya, the provision of engineering and maintenance servicing of Libyan aircraft or aircraft components, the certification of air-worthiness for Libyan aircraft, the payment of new claims against existing insurance contracts, and the provision of new direct insurance for Libyan aircraft;

5. *Decides further* that all States shall:

(a) Prohibit any provision to Libya by their nationals or from their territory of arms and related material of all types, including the sale or transfer of weapons and ammunition, military vehicles and equipment, paramilitary police equipment and spare parts for the aforementioned, as well as the provision of any types of equipment, supplies and grants of licensing arrangements, for the manufacture or maintenance of the aforementioned;

(b) Prohibit any provision to Libya by their nationals or from their territory of technical advice, assistance or training related to the provision, manufacture, maintenance, or use of the items in (a) above;

(c) Withdraw any of their officials or agents present in Libya to advise the Libyan authorities on military matters;

6. *Decides also* that all States shall:

(a) Significantly reduce the number and the level of the staff at Libyan diplomatic missions and consular posts and restrict or control the movement within their territory of all such staff who remain; in the case of Libyan missions to international organizations, the host State may, as it deems necessary, consult the organization concerned on the measures required to implement this subparagraph;

(b) Prevent the operation of all Libyan Arab Airlines offices;

(c) Take all appropriate steps to deny entry to or expel Libyan nationals who have been denied entry to or expelled from other States because of their involvement in terrorist activities;

7. *Calls upon* all States, including States not Members of the United Nations, and all international organizations, to act strictly in accordance with the provisions of the present resolution, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted before 15 April 1992;

8. *Requests* all States to report to the Secretary-General by 15 May 1992 on the measures they have instituted for meeting the obligations set out in paragraphs 3 to 7 above;

9. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council, to undertake the fol-

lowing tasks and to report on its work to the Council with its observations and recommendations:

(a) To examine the reports submitted pursuant to paragraph 8 above;

(b) To seek from all States further information regarding the action taken by them concerning the effective implementation of the measures imposed by paragraphs 3 to 7 above;

(c) To consider any information brought to its attention by States concerning violations of the measures imposed by paragraphs 3 to 7 above, and in that context, to make recommendations to the Council on ways to increase their effectiveness;

(d) To recommend appropriate measures in response to violations of the measures imposed by paragraphs 3 to 7 above and provide information on a regular basis to the Secretary-General for general distribution to Member States;

(e) To consider and to decide upon expeditiously any application by States for the approval of flights on grounds of significant humanitarian need in accordance with paragraph 4 above;

(f) To give special attention to any communications in accordance with Article 50 of the Charter of the United Nations from any neighbouring or other States with special economic problems which might arise from the carrying out of the measures imposed by paragraphs 3 to 7 above;

10. *Calls upon* all States to cooperate fully with the Committee in the fulfilment of its task, including supplying such information as may be sought by the Committee in pursuance of the present resolution;

11. *Requests* the Secretary-General to provide all necessary assistance to the Committee and to make the necessary arrangements in the Secretariat for this purpose;

12. *Invites* the Secretary-General to continue his role as set out in paragraph 4 of resolution 731 (1992);

13. *Decides* that the Security Council shall, every 120 days or sooner should the situation so require, review the measures imposed by paragraphs 3 to 7 above in the light of the compliance by the Libyan Government with paragraphs 1 and 2 above taking into account, as appropriate, any reports provided by the Secretary-General on his role as set out in paragraph 4 of resolution 731 (1992);

14. *Decides* to remain seized of the matter.

(8) S/RES/731, January 21, 1992

RESOLUTION 731 (1992)

Adopted by the Security Council at its 3033rd meeting, on 21 January 1992

The Security Council,

Deeply disturbed by the world-wide persistence of acts of international terrorism in all its forms, including those in which States are directly or indirectly involved, which endanger or take innocent lives, have a deleterious effect on international relations and jeopardize the security of States,

Deeply concerned by all activities directed against international civil aviation and affirming the right of all States, in accordance with the Charter of the United Nations and relevant principles of international law, to protect their nationals from acts of international terrorism that constitute threats to international peace and security,

Reaffirming its resolution 286 (1970) in which it called on States to take all possible legal steps to prevent any interference with international civil air travel,

Reaffirming also its resolution 635 (1989) in which it condemned all acts of unlawful interference against the security of civil aviation and called upon all States to cooperate in devising and implementing measures to prevent all acts of terrorism, including those involving explosives,

Recalling the statement made on 30 December 1988 by the President of the Council on behalf of the members of the Council strongly condemning the destruction of Pan Am flight 103 and calling on all States to assist in the apprehension and prosecution of those responsible for this criminal act,

Deeply concerned over results of investigations which implicate officials of the Libyan Government and which are contained in Security Council documents that include the requests addressed to the Libyan authorities by France [1,2] the United Kingdom of Great Britain and Northern Ireland [2,3] and the United States of America [2,4,5] in connection with the legal procedures related to the attacks carried out against Pan Am flight 103 and UTA flight 772,

Determined to eliminate international terrorism,

1. *Condemns* the destruction of Pan Am flight 103 and UTA flight 772 and the resultant loss of hundreds of lives;

2. *Strongly deplores* the fact that the Libyan Government has not yet responded effectively to the above requests to cooperate fully in

[1] S/23306.
[2] S/23309.
[3] S/23307.
[4] S/23308.
[5] S/23317.

establishing responsibility for the terrorist acts referred to above against Pan Am flight 103 and UTA flight 772;

3. *Urges* the Libyan Government immediately to provide a full and effective response to those requests so as to contribute to the elimination of international terrorism;

4. *Requests* the Secretary-General to seek the cooperation of the Libyan Government to provide a full and effective response to those requests;

5. *Urges* all States individually and collectively to encourage the Libyan Government to respond fully and effectively to those requests;

6. *Decides* to remain seized of the matter.

APPENDIX

Legislative Requirements for Reports to Congress Concerning International Terrorism [1]

1) Designation of Foreign Terrorist Organizations

LEGISLATION: Immigration and Nationality Act
PL 82–414, sec. 219(a)(2)(A)(i)

FREQUENCY: Seven days before making determination

FROM WHOM: Secretary of State, in consultation with Secretary of Treasury and Attorney General

REQUIREMENT: Notification, in classified format, of intent to designate an organization as a foreign terrorist organization, together with the factual basis for such findings. (Added by PL 104–132, sec. 302 and amended by PL 104–208, sec. 356).

2) Rewards for Information Relating to International Narcoterrorism

LEGISLATION: State Department Basic Authorities Act
PL 84–885, sec. 36(g)(1)

FREQUENCY: 30 days after paying any reward

FROM WHOM: Secretary of State

REQUIREMENT: Specify amount of terrorism rewards paid, to whom the reward was paid, and the acts with respect to which the reward was paid. (PL 98–533, sec. 102 added sec. 36) Title 18, sec. 3076, authorizes participation in the Justice Department's Witness Security Program to any individual who furnishes information which would justify a reward by the Secretary of State under this section. In classified form if necessary. (Added by PL 99–399, sec. 502(d)).

3) Operation of the Reward Program

LEGISLATION: State Department Basic Authorities Act
PL 84–885, sec. 36(g)(2)

FREQUENCY: Not later than 60 days after the end of each fiscal year

FROM WHOM: Secretary of State, in consultation with Attorney General

REQUIREMENT: Report concerning the operation of the rewards program, providing the total amounts expended during the fiscal year ending that year and including amounts expended to publicize the availability of rewards. (Added by PL 105–277, sec. 2202.)

[1] These are current active reporting requirements selected from Foreign Relations and Related Legislation, arranged by Public Law. All Public Laws are as amended.

4) REGULATIONS ON PROVISION OF TERRORISM-RELATED SERVICES

LEGISLATION: State Department Basic Authorities Act
PL 84–885, sec. 40(g)(1)

FREQUENCY: 30 days prior to issuing

FROM WHOM: Secretary of State

REQUIREMENT: Proposed regulations under authority in sec. 40 to impose controls on services if Secretary determines such services would aid and abet international terrorism. (Added by PL 99–399, sec. 506.)

5) LICENSES GRANTED AND DENIED CONCERNING TERRORISM-RELATED SERVICES

LEGISLATION: State Department Basic Authorities Act
PL 84–885, sec. 40(g)(2)

FREQUENCY: Every six months

FROM WHOM: Secretary of State

REQUIREMENT: Number and character of licenses granted and denied and other information relative to the accomplishment of the objectives of sec. 40 on authority to control certain terrorism-related services. (Added by PL 99–399, sec. 506.)

6) DENIAL OF VISAS

LEGISLATION: State Department Basic Authorities Act
PL 84–885, sec. 51(a)

FREQUENCY: On a timely basis

FROM WHOM: Secretary of State

REQUIREMENT: Report each time a consular post denies a visa on the grounds of terrorist activities or foreign policy, with name and nationality of each person and a statement for basis for denial. Information contained in report may be classified to extent necessary. (Added by PL 102–138, sec. 127(a)).

7) TRANSPORTATION SECURITY

LEGISLATION: Federal Aviation Act, 1958
PL 85–726, sec. 315(b)

FREQUENCY: Annually, not later than March 31

FROM WHOM: Secretary of Transportation

REQUIREMENT: The Secretary of Transportation submit a report on transportation security, in unclassified and classified parts. Such report shall include—(1) an assessment of trends and developments in terrorist activities, methods, and other threats to transportation; (2) an evaluation of deployment of explosive detection devices; (3) recommendations for research, engineering, and development activities related to transportation security; (4) identification and evaluation of cooperative efforts with other departments, agencies, and instrumentalities of the U.S. Government; (5) an evaluation of cooperation with foreign transportation and security authorities; (6) the status of the extent to which the recommendations of the President's Commission on Aviation Security and Terrorism have been carried out and the reasons for any delay in carrying out

those recommendations; (7) a summary of the activities of the Director of Intelligence and Security in the 12-month period ending on the date of this report; (8) financial and staffing requirements of the Director; (9) an assessment of financial and staffing requirements, and attainment of existing goals, for carrying out duties and powers of the Administrator related to security; and (10) appropriate legislative and regulatory recommendations.

8) SCREENING AND FOREIGN AIR CARRIER AND AIRPORT SECURITY

LEGISLATION: Federal Aviation Act, 1958
PL 85–726, sec. 316(a)

FREQUENCY: Annually

FROM WHOM: Administrator, Federal Aviation Administration

REQUIREMENT: The Administrator shall submit a report—(1) on the effectiveness of procedures for screening all passengers and property that will be carried on a cabin of an aircraft to ensure security against criminal violence and aircraft piracy; (2) that includes a summary of the assessments conducted to establish the extent to which a foreign airport effectively maintains and carries out security measures; and (3) that includes an assessment of the steps being taken and the progress being made, to ensure that foreign air carrier security programs for airports outside of the United States are in compliance with this subsection.

9) SANCTIONS IMPOSED ON FOREIGN AIRPORTS FOR NOT MAINTAINING SECURITY

LEGISLATION: Federal Aviation Act of 1958
PL 85–726, sec. 1115(d)(3)

FREQUENCY: Promptly

FROM WHOM: Secretary of Transportation

REQUIREMENT: Report on any action taken to impose sanctions on foreign airports that do not maintain and administer effective security measures. Include information on attempts made to obtain the cooperation of the government of the foreign country in meeting the standards used in assessing the airport under subsection (a). If necessary, may include a classified annex.

10) LIFTING OF SANCTIONS IMPOSED ON AIRPORTS NOT MAINTAINING SECURITY

LEGISLATION: Federal Aviation Act, 1958
PL 85–726, sec. 1115(f)

FREQUENCY: Notify when sanctions are lifted

FROM WHOM: Secretary of Transportation

REQUIREMENT: Notification when any sanction imposed on a foreign airport for not maintaining and carrying out effective security measures is lifted.

11) ASSISTANCE FOR COUNTERTERRORISM EFFORTS

LEGISLATION: Foreign Assistance Act, 1961
PL 87–195, sec. 573(c)

FREQUENCY: 15 days in advance

FROM WHOM: President

REQUIREMENT: Notification that assistance will be provided for counterterrorism efforts to a foreign country for the purpose of protecting U.S. property, the life and property of any U.S. citizen, or for furthering the apprehension of any individual involved in an act of terrorism against such property or persons. (Added by PL 104–132, sec. 328(c)).

12) CERTIFICATION THAT COUNTRY IS NOT SUPPORTING TERRORISM

LEGISLATION: Foreign Assistance Act, 1961
PL 87–195, sec. 620A(c)(1) or (2)

FREQUENCY: Para. (1): Prior to proposed rescission; or Para. (2): At least 45 days before proposed rescission would take effect

FROM WHOM: President

REQUIREMENT: Determination made by State Department that country supports terrorism, thus prohibiting assistance under sec. 620A(a), may be rescinded if (1) certified that there has been a fundamental change in the leadership and policies of the government concerned and assurances are provided that the government is not and will not support acts of terrorism in the future, or (2) report justifying the rescission of the determination with certification that the government concerned has not provided support for terrorism during the preceding 6-month period and has provided assurances that it will not support terrorism in the future. (Amended by PL 101–222, sec. 5).

13) CONSULTATION ON PROPOSED WAIVER ON PROHIBITION OF ASSISTANCE TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

LEGISLATION: Foreign Assistance Act, 1961
PL 87–195, sec. 620A(d)(1)and(2)

FREQUENCY: 15 days before waiver takes effect

FROM WHOM: President

REQUIREMENT: Determination and notification that national security interests or humanitarian reasons justify the proposed waiver, with report containing the name of recipient country; description of reasons; type and amount of and justification for assistance, and period of time such waiver will be effective. (Amended by PL 101–222, sec. 5)

14) WAIVER OF PROHIBITION OF EXPORTS TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

LEGISLATION: Arms Export Control Act
PL 90–629, sec. 40(b)

FREQUENCY: Upon waiver

FROM WHOM: President

REQUIREMENT: Determination that it is important to the national interests of the United States to export item on U.S. Munitions List to country that Secretary of State has determined has repeatedly provided support for acts of international terrorism, with justification and description of proposed export. Waiver expires at

the end of 90 days unless Congress enacts law extending the waiver. (Added by PL 99–399, sec. 509(a)). (Amended by PL 101–222).

15) RESCISSION OF PROHIBITION OF ASSISTANCE TO COUNTRIES THAT SUPPORT ACTS OF TERRORISM

LEGISLATION: Arms Export Control Act
PL 90–629, sec. 40(f)(1)

FREQUENCY: (1) Prior to proposed rescission or (2) at least 45 days before proposed rescission would take effect

FROM WHOM: President

REQUIREMENT: (1) Determination made by State Department under subsection (d) may not be rescinded unless certified that there has been a fundamental change in the leadership and policies of the government concerned, is not presently supporting terrorism, and has provided assurances it will not in the future. (2) or certification that government has not provided any support for terrorism during the preceding 6-month period and will not provide support in the future. (Added by PL 102–222, sec. 2).

16) WAIVER OF PROHIBITIONS ON ARMS TRANSACTIONS WITH COUNTRIES SUPPORTING TERRORISM

LEGISLATION: Arms Export Control Act
PL 90–629, sec. 40(g)(1)

FREQUENCY: Upon determination

FROM WHOM: President

REQUIREMENT: Determination to waive prohibitions to a specific transaction if that transaction is essential to the national security interests of the United States. (Added by PL 101–222, sec. 2)

17) WAIVER OF SPECIFIC ARMS TRANSACTION WITH COUNTRIES SUPPORTING TERRORISM

LEGISLATION: Arms Export Control Act
PL 90–629, sec. 40(g)(2)

FREQUENCY: 15 days prior to the proposed transaction

FROM WHOM: President

REQUIREMENT: Consult with the House Committee on Foreign Affairs and Senate Committee on Foreign Relations on the waiver of prohibition on the proposed transaction involving munitions. (Added by PL 101–222, sec. 2).

18) TRANSACTIONS WITH COUNTRIES NOT FULLY COOPERATING WITH U.S. ANTITERRORISM EFFORTS

LEGISLATION: Arms Export Control Act
PL 90–629, sec. 40A(a)

FREQUENCY: By May 15 of calendar year in which that FY begins

FROM WHOM: President

REQUIREMENT: Determination and certification that a foreign country is not fully cooperating with United States antiterrorism efforts. (Added by PL 104–132, sec. 330).

19) Waiving the Prohibition on Transactions with Countries Not Fully Cooperating with U.S. Antiterrorism Efforts

LEGISLATION: Arms Export Control Act
PL 90–629, sec. 40A(b)

FREQUENCY: Upon determination

FROM WHOM: President

REQUIREMENT: Determination that it is in the national interest of the United States to waive the prohibition under the Arms Export Control Act on assistance to countries not fully cooperating with U.S. antiterrorism efforts. (Added by PL 104–132, sec. 330).

20) U.S. Government Efforts To Prevent Nuclear Proliferation

LEGISLATION: Nuclear Non-Proliferation Act of 1978
PL 95–242, sec. 601(a)

FREQUENCY: Annually

FROM WHOM: President

REQUIREMENT: Review of all activities of U.S. Government departments and agencies relating to preventing nuclear proliferation; report to include: a determination as to which non-nuclear weapon states have detonated a nuclear device, refused to accept the safeguards of the IAEA, or refused to give specific assurances that they will not manufacture or otherwise acquire nuclear explosive devices; an assessment of whether any policies have been counterproductive; a description of progress toward establishing procedures to facilitate the timely processing of requests for subsequent arrangements and export licenses; progress toward combatting international nuclear terrorism; and on adherence to the Convention on the Physical Protection of Nuclear Material, adequacy of IAEA physical security guidelines, minimizing weapons-grade nuclear material in international transit and an agreement in the U.N. Security Council for international sanctions against nuclear terrorism and coordinating recovery of stolen nuclear material. Include the following: a description of the implementation of nuclear and nuclear-related dual-use export controls in the preceding calendar year, including a summary by type of commodity and destinations and the progress of those independent states of the former Soviet Union that are non-nuclear weapons states and of the Baltic States towards achieving the objective of applying full scope safeguards to all their peaceful nuclear activities. Portions may be in classified form. (Added by PL 103–236, sec. 811). Describe steps taken to implement sections 841 and 842 of PL 103–236 and any progress made and any obstacles that have been encountered in seeking to meet the objectives set forth in those sections. (Added by PL 103–236, sec. 843(a)).

21) Export of Goods to Countries Supporting International Terrorism

LEGISLATION: Export Administration Act, 1979
PL 96–72, sec. 6(j)(2)

FREQUENCY: 30 days prior to approval of license FROM WHOM: Secretary of State and Secretary of Commerce

REQUIREMENT: Notification of approval of licenses for the export of goods or technology to any country for which the Secretary of State has determined (1) such country repeatedly provides support for acts of international terrorism; and (2) such exports would contribute significantly to the country's military potential, including military logistics, or would enhance the ability of the country to support acts of international terrorism. (Amended by PL 101–222, sec. 4). (First added by PL 102–391, sec. 553). Instructs Executive Directors of all International Financial Institutions to vote against any loan or use of funds to or for any country for which the Secretary of State has made a determination under this section. (Added by PL 103–87, sec. 528). The International Fund for Agricultural Development was added to list of international financial institutions. (Added by PL 103–236, sec. 736). Include a detailed description of the goods or services to be offered, the reasons why the foreign country or international organization needs the goods or services,the reasons why the proposed export or transfer is in the national interest, an analysis of the impact on the military capabilities of the recipient, an analysis of how export would affect military strengths of countries in region and analysis of the impact of proposed export on U.S. relations with countries in region.

22) Rescission of Determination of Countries Supporting International Terrorism

LEGISLATION: Export Administration Act, 1979
PL 96–72, sec. 6(j)(4)

FREQUENCY: Before proposed rescission would take effect

FROM WHOM: President

REQUIREMENT: Report rescinding determination that a specified country has repeatedly provided support for acts of international terrorism, including certification that there has been a fundamental change in the leadership and policies of the government of that country, that the government is not supporting terrorism and has provided assurances that it will not support terrorism in the future. Section (B) requires a report at least 45 days before proposed rescission takes effect justifying rescission and certifying that the government concerned has not provided any support for terrorism during the preceding six month period and will not support terrorism in the future. (Amended by PL 101–222, sec. 4). (Added by PL 102–391, sec. 553) Instructs Executive Directors of all International Financial Institutions and the International Fund for Agricultural Development to vote against any loans or use of funds to or for any country for which the Secretary of State has made a determination under this section. (Continued in PL 103–87, sec. 528).

23) Coordination of All U.S. Terrorism-Related Assistance to Foreign Countries

LEGISLATION: International Security and Development Cooperation Act, 1985

PL99–83, sec. 502(b)

FREQUENCY: Annually, by February 1

FROM WHOM: Secretary of State, in consultation with Other Agencies

REQUIREMENT: An accounting of all assistance related to international terrorism provided to foreign countries by the United States during the preceding year. May be provided on a classified basis.

24) Consultation Before Banning Imports From Countries Supporting Terrorism

LEGISLATION: International Security and Development Cooperation Act, 1985

PL 99–83, sec. 505(b)

FREQUENCY: Before and while exercising authority

FROM WHOM: President

REQUIREMENT: Consultation, in every possible instance, before banning imports of goods or services from any country that supports terrorism or terrorist organizations; regular consultation when authority is being used.

25) Ban on Imports from Countries that are Supporting Terrorism

LEGISLATION: International Security and Development Cooperation Act, 1985

PL 99–83, sec. 505(c)

FREQUENCY: Upon occurrence and every succeeding 6 months

FROM WHOM: President

REQUIREMENT: Report specifying the country from which the President is banning imports into the U.S. due to such countries' support of terrorism or terrorist organizations. Report to include imports to be banned, circumstances and reasons for the ban. Subsequent reports stating actions taken pursuant to this authority and any changes in the situation.

26) Findings of Accountability Review Board on Diplomatic Security Incident

LEGISLATION: Diplomatic Security and Antiterrorism Act, 1986

PL 99–399, sec. 304(d)

FREQUENCY: In any case a Board transmits findings of reasonable cause

FROM WHOM: Head of federal agency appropriate in each case

REQUIREMENT: Summary of nature of case and evidence transmitted to the Accountability Review Board on facts surrounding serious injury or destruction related to U.S. Government mission abroad; together with decision by the federal agency to take disciplinary or other appropriate action or reasons not to take such actions against individual involved.

27) Request for Appropriations for Diplomatic Security Program

LEGISLATION: Diplomatic Security and Antiterrorism Act, 1986 PL 99–399, sec. 401(b)

FREQUENCY: With any request for appropriations for program in sec. 401(a)

FROM WHOM: Secretary of State

REQUIREMENT: Notification of request for appropriation with justification of each item listed. (Amended by PL 103–265, sec. 122(b)).

28) Insufficient Funds for Diplomatic Security Program

LEGISLATION: Diplomatic Security and Antiterrorism Act, 1986 PL 99–399, sec. 401(f)

FREQUENCY: In event of insufficient funds

FROM WHOM: Secretary of State

REQUIREMENT: Report on effect that insufficiency of funds will have on Department of State and other foreign affairs agencies, if sufficient funds are not available for all the diplomatic security construction, acquisition, and operations justified to Congress for any fiscal year.

29) Travel Advisory for U.S. Citizens Abroad

LEGISLATION: Diplomatic Security and Antiterrorism Act, 1986 PL 99–399, sec. 505

FREQUENCY: Promptly advise

FROM WHOM: Secretary of State

REQUIREMENT: Notification that Department of State has issued a travel advisory or other public warning notice for U.S. citizens traveling abroad, because of a terrorist threat or other security concern.

30) Threat of Terrorism to U.S. Ports and Vessels

LEGISLATION: Diplomatic Security and Antiterrorism Act, 1986 PL 99–399, sec. 905

FREQUENCY: Feb. 28, 1987, and annually thereafter

FROM WHOM: Secretary of Transportation

REQUIREMENT: Report on threat from acts of terrorism to U.S. ports and vessels operating from those ports. To be consolidated with reports under secs. 903 and 907, with any classified material submitted separately as addendum.

31) Change in Status of Travel Advisory Concerning Security at Foreign Ports

LEGISLATION: Diplomatic Security and Antiterrorism Act, 1986 PL 99–399, sec. 908(c)

FREQUENCY: Immediately upon any change

FROM WHOM: Secretary of State

REQUIREMENT: Notification of any change in the status of a travel advisory imposed after Secretary of Transportation has determined that a condition exists that threatens the safety or security of passengers, passenger vessels, or crew traveling to or from a foreign port that does not maintain and administer effective security measures.

32) ANNUAL COUNTRY REPORTS ON TERRORISM

LEGISLATION: Foreign Relations Authorization Act, FYs 1988–89
PL 100–204, sec. 140

FREQUENCY: April 30 each year to cover preceding calendar year

FROM WHOM: Secretary of State

REQUIREMENT: Full and complete report providing (1) detailed assessments with respect to each foreign country (A) in which acts of international terrorism occur of major significance; and (B) about which Congress was notified during the preceding 5 years pursuant to sec. 6(j) of Export Administration Act, 1979; (2) all relevant information about the advocates of any terrorist groups responsible for the kidnapping or death of an American during the preceding year. Added by PL 104–208, sec. 578: (3) with respect to each foreign country from which the U.S. Government has sought cooperation during the previous five years, information on the investigation or prosecution of an act of international terrorism against U.S. citizens or interests or in the prevention of further acts of terrorism. Report to review major counterterrorism efforts undertaken, response of judicial system and significant support for international terrorism by each country, and efforts by the United States to eliminate international financial support provided to those groups directed or provided in support of their activities. Information received with respect to a foreign country in classified form is preferred if cooperation is more likely.

33) REPORT ON TERRORIST ASSETS IN THE UNITED STATES

LEGISLATION: Foreign Relations Authorization Act, FYs 1992–1993
PL 102–138, sec. 304(a)

FREQUENCY: January 28, 1992; then every 365 days thereafter

FROM WHOM: Treasury, in consultation with Attorney General and Appropriate Investigative Agencies

REQUIREMENT: Report describing the nature and extent of assets held in the United States by terrorist countries and any organization engaged in international terrorism. (Added by PL 103–236, sec. 133(b)(2)). Each such report shall provide a detailed list and description of specific assets.

34) ACTIVITIES IN SUPPORT OF COUNTERPROLIFERATION PROGRAMS

LEGISLATION: National Defense Authorization Act, FY 1994
PL 103–160, sec. 1603(d)

FREQUENCY: Annually, by April 30

FROM WHOM: Secretary of Defense

REQUIREMENT: Report on activities carried out for the preceding twelve-month period with a description of the studies and analysis and amounts spent; list of organizations that conducted studies and analysis; an explanation of the extent to which such studies and analysis contribute to the U.S. counterproliferation policy and military capabilities to deter and respond to terrorism, theft and proliferation involving weapons of mass destruction; and a description of the measures being taken to ensure that management of such studies and analysis are handled effectively and coordinated comprehensively. Frequency changed from semi-annually.

(Amended by PL 104–106 and PL 103–337, sec. 1505(b)).

35) MULTILATERAL SANCTIONS REGIME AGAINST IRAN

LEGISLATION: Iran and Libya Sanctions Act, 1996

PL 104–172, sec. 4(b)(1)(2)

FREQUENCY: By August 5, 1997; and periodically thereafter

FROM WHOM: President

REQUIREMENT: Report on extent to establish, both in international fora such as the United Nations, and bilaterally with our allies, a multilateral sanctions regime against Iran, including provisions limiting the development of petroleum resources, that will inhibit Iran's efforts to carry out terrorist activities. Each report shall list—(1) the countries that have agreed to undertake measures to further the objectives of section 3 with respect to Iran, and a description of those measures, and (2) the countries that have not agreed to measures described in paragraph (1), and, with respect to those countries, other measures (in addition to that provided in subsection (d)) the President recommends that the United States take to further the objectives of section 3 with respect to Iran.

36) NOTIFICATION OF INTENT TO WAIVE THE APPLICATION OF IMPOSITION OF SANCTIONS.

LEGISLATION: Iran and Libya Sanctions Act, 1996
PL 104–172, sec. 4(c)

FREQUENCY: At least 30 days before waiver takes effect

FROM WHOM: President

REQUIREMENT: Notification of intent to waive the application of section (5)(a) with respect to nationals of a country if that country has agreed to undertake substantial measures, including economic sanctions, that will inhibit Iran's efforts to carry out activities described in section 2 and information required by subsection (b)(1) has been included in a report submitted under section (4)(b).

37) TERMINATION OF SANCTIONS WITH RESPECT TO IRAN

LEGISLATION: Iran and Libya Sanctions Act, 1996
PL 104–172, sec. 8(a)

FREQUENCY: Upon determination

FROM WHOM: President

REQUIREMENT: The requirement under section 5(b) to impose sanctions against Libya shall no longer have force or effect with respect to Iran if determined and certified that Iran—(1) has ceased

its efforts to design, develop, manufacture, or acquire—(A) a nuclear explosive device or related materials and technology; (B) chemical and biological weapons; and (C) ballistic missiles and ballistic missile launch technology; and (2) has been removed from the list of countries the government of which have been determined, for purposes of section 6(j) of the Export Administration Act of 1979, to have repeatedly provided support for acts of international terrorism.

38) Termination of Sanctions Against Libya

LEGISLATION: Iran and Libya Sanctions Act, 1996
PL 104–172, sec. 8(b) FREQUENCY: Upon determination and certification

FROM WHOM: President

REQUIREMENT: The requirement under section 5(b) to impose sanctions shall no longer have force or effect if the President determines and certifies that Libya has fulfilled the requirements of United Nations Security Council Resolutions 731, 748, and 833.

39) Consultations with Foreign Government to Delay Sanctions

LEGISLATION: Iran and Libya Sanctions Act, 1996
PL 104–172, sec. 9(a)(1)(2)(3)

FREQUENCY: Immediately

FROM WHOM: President

REQUIREMENT: The President may waive imposition of sanctions under this Act for up to 90 days in order to initiate consultations with affected government. Sanctions may be imposed immediately unless a determination and certification is made that such government has taken specific and effective actions, including, as appropriate, the imposition of appropriate penalties, to terminate the involvement of the foreign person in the activities that resulted in the determination. Paragraph (3) permits an additional 90 day waiver to be granted if determined and certified that the government is in the process of taking actions described in paragraph (2).

40) Determination and Certification Regarding Duration of Sanctions

LEGISLATION: Iran and Libya Sanctions Act, 1996
PL 104–172, sec. 9(b)(1) or (2)

FREQUENCY: (1) for a period of not less than 2 years from date sanction was imposed or (2) upon Presidential certification and determination

FROM WHOM: President

REQUIREMENT: A sanction imposed under section 5 shall remain in effect for at least two years or until such time as it is determined and certified that the person whose activities were the basis for imposing the sanction is no longer engaging in such activities and that the President has received reliable assurances that such person will not knowingly engage in such activities in the future,

except that such sanction shall remain in effect for a period of at least one year.

41) REPORT ON USE OF WAIVER AUTHORITY ON IMPOSED SANCTIONS

LEGISLATION: Iran and Libya Sanctions Act, 1996
PL 104–172, sec. 9(c)

FREQUENCY: Thirty days after determination

FROM WHOM: President

REQUIREMENT: The President may waive the requirement in section 5 to impose sanctions and waive the continued imposition of sanctions under subsection (b) of this section, if he determines that it is important to the United States national interest to exercise such authority. If such waiver is granted on a person described in section 5(c), sanctions need not be imposed under section 5(a) or (b) on that person during the 30-day period referred to in paragraph (1).

42) REPORT ON CERTAIN INTERNATIONAL INITIATIVES

LEGISLATION: Iran and Libya Sanctions Act, 1996
PL 104–172, sec. 10(a)

FREQUENCY: By February 1997, and every six months thereafter

FROM WHOM: President

REQUIREMENT: Report describing—(1) efforts to mount a multilateral campaign to persuade all countries to pressure Iran to cease its nuclear, chemical, biological, and missile weapons programs and its support of acts of international terrorism; (2) efforts to persuade other governments to ask Iran to reduce the presence of Iranian diplomats and representatives of other governments and military or quasi-governmental institutions of Iran and to withdraw any such diplomats or representatives who participated in the takeover of the U.S. embassy in Tehran on November 4, 1979, or the subsequent holding of U.S. hostages for 444 days; (3) extent to which the IAEA has established regular inspections of all nuclear facilities in Iran, including those presently under construction; and (4) Iran's use of Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran to promote acts of international terrorism or to develop or sustain Iran's nuclear, chemical, biological, and missile weapons programs. This Act shall cease to be effective after August 5, 2001.

43) THREAT TO THE UNITED STATES BY WEAPONS OF MASS DESTRUCTION

LEGISLATION: National Defense Authorization Act, FY 1998
PL 105–85, sec. 234

FREQUENCY: Annually, by January 30

FROM WHOM: Secretary of Defense

REQUIREMENT: Report on the threats posed to the United States and allies—(1) by weapons of mass destruction, ballistic missiles, and cruise missiles; and (2) by the proliferation of such weapons of mass destruction.

44) Budget for Carrying Out Counterterrorism and Antiterrorism Activities

LEGISLATION: National Defense Authorization Act, FY 1998 PL 105–85, sec. 1051

FREQUENCY: Annually, by March 1

FROM WHOM: President

REQUIREMENT: Report containing information on (A) the budget and expenditures 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.

45) Determination to Waive Prohibition on Bilateral Assistance to Terrorist Countries

LEGISLATION: Foreign Operations Appropriations Act, 2000 PL 106–113, sec. 527(b)

FREQUENCY: Fifteen days prior to waiver

FROM WHOM: President

REQUIREMENT: Determination that national security or humanitarian reasons justify a waiver of the prohibition on bilateral assistance to any country that grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism or otherwise supports terrorism, with justification for waiver.

46) Waiver on Prohibition on Assistance to Foreign Countries that Export Lethal Military Equipment to Countries Supporting Terrorism

LEGISLATION: Foreign Operations Appropriations Act, 2000 PL 106–113, sec. 549(b),(c)

FREQUENCY: Upon determination

FROM WHOM: President

REQUIREMENT: Determination that to waive restriction on furnishing assistance to a foreign government that exports lethal military equipment to countries that support terrorism is important to the national interests of the United States. Include a detailed explanation of the assistance provided with dollar amounts, and an explanation of how the assistance furthers United States national interests.

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