

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR
2000

NOVEMBER 5, 1999.—Ordered to be printed

Mr. GOSS, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 1555]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1555), to authorize appropriations for fiscal year 2000 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, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 2000”.

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

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.

Sec. 102. Classified schedule of authorizations.

Sec. 103. Personnel ceiling adjustments.

Sec. 104. Intelligence Community Management Account.

Sec. 105. Authorization of emergency supplemental appropriations for fiscal year 1999.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND
DISABILITY SYSTEM

Sec. 201. *Authorization of appropriations.*

TITLE III—GENERAL PROVISIONS

- Sec. 301. *Increase in employee compensation and benefits authorized by law.*
 Sec. 302. *Restriction on conduct of intelligence activities.*
 Sec. 303. *Diplomatic intelligence support centers.*
 Sec. 304. *Protection of identity of retired covert agents.*
 Sec. 305. *Access to computers and computer data of executive branch employees with access to classified information.*
 Sec. 306. *Naturalization of certain persons affiliated with a Communist or similar party.*
 Sec. 307. *Technical amendment.*
 Sec. 308. *Declassification review of intelligence estimate on Vietnam-era prisoners of war and missing in action personnel and critical assessment of estimate.*
 Sec. 309. *Report on legal standards applied for electronic surveillance.*
 Sec. 310. *Report on effects of foreign espionage on the United States.*
 Sec. 311. *Report on activities of the Central Intelligence Agency in Chile.*
 Sec. 312. *Report on Kosova Liberation Army.*
 Sec. 313. *Reaffirmation of longstanding prohibition against drug trafficking by employees of the intelligence community.*
 Sec. 314. *Sense of Congress on classification and declassification.*
 Sec. 315. *Sense of Congress on intelligence community contracting.*

TITLE IV—CENTRAL INTELLIGENCE AGENCY

- Sec. 401. *Improvement and extension of central services program.*
 Sec. 402. *Extension of CIA Voluntary Separation Pay Act.*

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

- Sec. 501. *Protection of operational files of the National Imagery and Mapping Agency.*
 Sec. 502. *Funding for infrastructure and quality of life improvements at Menwith Hill and Bad Aibling stations.*

TITLE VI—FOREIGN COUNTERINTELLIGENCE AND INTERNATIONAL
TERRORISM INVESTIGATIONS

- Sec. 601. *Expansion of definition of “agent of a foreign power” for purposes of the Foreign Intelligence Surveillance Act of 1978.*
 Sec. 602. *Federal Bureau of Investigation reports to other executive agencies on results of counterintelligence activities.*

TITLE VII—NATIONAL COMMISSION FOR THE REVIEW OF THE NATIONAL
RECONNAISSANCE OFFICE

- Sec. 701. *Findings.*
 Sec. 702. *National Commission for the Review of the National Reconnaissance Office.*
 Sec. 703. *Duties of commission.*
 Sec. 704. *Powers of commission.*
 Sec. 705. *Staff of commission.*
 Sec. 706. *Compensation and travel expenses.*
 Sec. 707. *Treatment of information relating to national security.*
 Sec. 708. *Final report; termination.*
 Sec. 709. *Assessments of final report.*
 Sec. 710. *Inapplicability of certain administrative provisions.*
 Sec. 711. *Funding.*
 Sec. 712. *Congressional intelligence committees defined.*

TITLE VIII—INTERNATIONAL NARCOTICS TRAFFICKING

- Sec. 801. *Short title.*
 Sec. 802. *Findings and policy.*
 Sec. 803. *Purpose.*
 Sec. 804. *Public identification of significant foreign narcotics traffickers and required reports.*
 Sec. 805. *Blocking assets and prohibiting transactions.*
 Sec. 806. *Authorities.*

- Sec. 807. *Enforcement.*
 Sec. 808. *Definitions.*
 Sec. 809. *Exclusion of persons who have benefited from illicit activities of drug traffickers.*
 Sec. 810. *Judicial Review Commission on Foreign Asset Control.*
 Sec. 811. *Effective date.*

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2000 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

- (1) The Central Intelligence Agency.*
- (2) The Department of Defense.*
- (3) The Defense Intelligence Agency.*
- (4) The National Security Agency.*
- (5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.*
- (6) The Department of State.*
- (7) The Department of the Treasury.*
- (8) The Department of Energy.*
- (9) The Federal Bureau of Investigation.*
- (10) The National Reconnaissance Office.*
- (11) The National Imagery and Mapping Agency.*

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2000, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill H.R. 1555 of the One Hundred Sixth Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The classified Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the Executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2000 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed two percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the

Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by this section.

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—*There is authorized to be appropriated for the Intelligence Community Management Account of the Director of Central Intelligence for fiscal year 2000 the sum of \$170,672,000.*

(b) **AUTHORIZED PERSONNEL LEVELS.**—*The elements within the Community Management Account of the Director of Central Intelligence are authorized a total of 348 full-time personnel as of September 30, 2000. Personnel serving in such elements may be permanent employees of the Community Management Account element or personnel detailed from other elements of the United States Government.*

(c) **CLASSIFIED AUTHORIZATIONS.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—*In addition to amounts authorized to be appropriated for the Community Management Account by subsection (a), there is also authorized to be appropriated for the Community Management Account for fiscal year 2000 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts shall remain available until September 30, 2001.*

(2) **AUTHORIZATION OF PERSONNEL.**—*In addition to the personnel authorized by subsection (b) for elements of the Community Management Account as of September 30, 2000, there is hereby authorized such additional personnel for such elements as of that date as is specified in the classified Schedule of Authorizations.*

(d) **REIMBURSEMENT.**—*Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2000, any officer or employee of the United States or member of the Armed Forces who is detailed to the staff of an element within the Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.*

(e) **NATIONAL DRUG INTELLIGENCE CENTER.**—

(1) **IN GENERAL.**—*Of the amount authorized to be appropriated in subsection (a), \$27,000,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, test, and evaluation purposes shall remain available until September 30, 2001, and funds provided for procurement purposes shall remain available until September 30, 2002.*

(2) **TRANSFER OF FUNDS.**—*The Director of Central Intelligence shall transfer to the Attorney General of the United States funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for activities of the Center.*

(3) **LIMITATION.**—*Amounts available for the National Drug Intelligence Center may not be used in contravention of the pro-*

visions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403-3(d)(1)).

(4) AUTHORITY.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.

SEC. 105. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1999.

(a) AUTHORIZATION.—Amounts authorized to be appropriated for fiscal year 1999 under section 101 of the Intelligence Authorization Act for Fiscal Year 1999 (Public Law 105-272) for the conduct of the intelligence activities of elements of the United States Government listed in such section are hereby increased, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased by the 1999 Emergency Supplemental Appropriations Act (Public Law 106-31), for such amounts as are designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

(b) RATIFICATION.—For purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414), any obligation or expenditure of amounts appropriated in the 1999 Emergency Supplemental Appropriations Act for intelligence activities is hereby ratified and confirmed, to the extent such amounts are designated by Congress as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2000 the sum of \$209,100,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. DIPLOMATIC INTELLIGENCE SUPPORT CENTERS.

(a) *IN GENERAL.*—Title I of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

“LIMITATION ON ESTABLISHMENT OR OPERATION OF DIPLOMATIC
INTELLIGENCE SUPPORT CENTERS

“SEC. 115. (a) *IN GENERAL.*—(1) A diplomatic intelligence support center may not be established, operated, or maintained without the prior approval of the Director of Central Intelligence.

“(2) The Director may only approve the establishment, operation, or maintenance of a diplomatic intelligence support center if the Director determines that the establishment, operation, or maintenance of such center is required to provide necessary intelligence support in furtherance of the national security interests of the United States.

“(b) *PROHIBITION OF USE OF APPROPRIATIONS.*—Amounts appropriated pursuant to authorizations by law for intelligence and intelligence-related activities may not be obligated or expended for the establishment, operation, or maintenance of a diplomatic intelligence support center that is not approved by the Director of Central Intelligence.

“(c) *DEFINITIONS.*—In this section:

“(1) The term ‘diplomatic intelligence support center’ means an entity to which employees of the various elements of the intelligence community (as defined in section 3(4)) are detailed for the purpose of providing analytical intelligence support that—

“(A) consists of intelligence analyses on military or political matters and expertise to conduct limited assessments and dynamic taskings for a chief of mission; and

“(B) is not intelligence support traditionally provided to a chief of mission by the Director of Central Intelligence.

“(2) The term ‘chief of mission’ has the meaning given that term by section 102(3) of the Foreign Service Act of 1980 (22 U.S.C. 3902(3)), and includes ambassadors at large and ministers of diplomatic missions of the United States, or persons appointed to lead United States offices abroad designated by the Secretary of State as diplomatic in nature.

“(d) *TERMINATION.*—This section shall cease to be effective on October 1, 2000.”

(b) *CLERICAL AMENDMENT.*—The table of contents contained in the first section of such Act is amended by inserting after the item relating to section 114 the following new item:

“Sec. 115. Limitation on establishment or operation of diplomatic intelligence support centers.”

SEC. 304. PROTECTION OF IDENTITY OF RETIRED COVERT AGENTS.

(a) *IN GENERAL.*—Section 606(4)(A) of the National Security Act of 1947 (50 U.S.C. 426(4)(A)) is amended—

(1) by striking “an officer or employee” and inserting “a present or retired officer or employee”; and

(2) by striking “a member” and inserting “a present or retired member”.

(b) *PRISON SENTENCES FOR VIOLATIONS.*—

(1) **IMPOSITION OF CONSECUTIVE SENTENCES.**—Section 601 of the National Security Act of 1947 (50 U.S.C. 421) is amended by adding at the end the following new subsection:

“(d) A term of imprisonment imposed under this section shall be consecutive to any other sentence of imprisonment.”.

(2) **TECHNICAL AMENDMENTS.**—Such section 601 is further amended—

(A) in subsection (a), by striking “shall be fined not more than \$50,000” and inserting “shall be fined under title 18, United States Code,”;

(B) in subsection (b), by striking “shall be fined not more than \$25,000” and inserting “shall be fined under title 18, United States Code,”; and

(C) in subsection (c), by striking “shall be fined not more than \$15,000” and inserting “shall be fined under title 18, United States Code,”.

SEC. 305. ACCESS TO COMPUTERS AND COMPUTER DATA OF EXECUTIVE BRANCH EMPLOYEES WITH ACCESS TO CLASSIFIED INFORMATION.

(a) **ACCESS.**—Section 801(a)(3) of the National Security Act of 1947 (50 U.S.C. 435(a)(3)) is amended by striking “and travel records” and inserting “travel records, and computers used in the performance of government duties”.

(b) **COMPUTER DEFINED.**—Section 804 of that Act (50 U.S.C. 438) is amended—

(1) by striking “and” at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting “; and”; and

(3) by adding at the end the following:

“(8) the term ‘computer’ means any electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device and any data or other information stored or contained in such device.”.

(c) **APPLICABILITY.**—The President shall modify the procedures required by section 801(a)(3) of the National Security Act of 1947 to take into account the amendment to that section made by subsection (a) of this section not later than 90 days after the date of the enactment of this Act.

SEC. 306. NATURALIZATION OF CERTAIN PERSONS AFFILIATED WITH A COMMUNIST OR SIMILAR PARTY.

Section 313 of the Immigration and Nationality Act (8 U.S.C. 1424) is amended by adding at the end the following new subsection:

“(e) A person may be naturalized under this title without regard to the prohibitions in subsections (a)(2) and (c) of this section if the person—

“(1) is otherwise eligible for naturalization;

“(2) is within the class described in subsection (a)(2) solely because of past membership in, or past affiliation with, a party or organization described in that subsection;

“(3) does not fall within any other of the classes described in that subsection; and

“(4) is determined by the Director of Central Intelligence, in consultation with the Secretary of Defense, and with the concurrence of the Attorney General, to have made a contribution to the national security or to the national intelligence mission of the United States.”

SEC. 307. TECHNICAL AMENDMENT.

Section 305(b)(2) of the Intelligence Authorization Act for Fiscal Year 1997 (Public Law 104–293, 110 Stat. 3465; 8 U.S.C. 1427 note) is amended by striking “subparagraph (A), (B), (C), or (D) of section 243(h)(2) of such Act” and inserting “clauses (i) through (iv) of section 241(b)(3)(B) of such Act”.

SEC. 308. DECLASSIFICATION REVIEW OF INTELLIGENCE ESTIMATE ON VIETNAM-ERA PRISONERS OF WAR AND MISSING IN ACTION PERSONNEL AND CRITICAL ASSESSMENT OF ESTIMATE.

(a) **DECLASSIFICATION REVIEW.**—Subject to subsection (b), the Director of Central Intelligence shall review for declassification the following:

(1) National Intelligence Estimate 98–03 dated April 1998 and entitled “Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue”.

(2) The assessment dated November 1998 and entitled “A Critical Assessment of National Intelligence Estimate 98–03 prepared by the United States Chairman of the Vietnam War Working Group of the United States-Russia Joint Commission on POWs and MIAs”.

(b) **LIMITATIONS.**—The Director shall not declassify any text contained in the estimate or assessment referred to in subsection (a) which would—

(1) reveal intelligence sources and methods; or

(2) disclose by name the identity of a living foreign individual who has cooperated with United States efforts to account for missing personnel from the Vietnam era.

(c) **DEADLINE.**—The Director shall complete the declassification review of the estimate and assessment under subsection (a) not later than 30 days after the date of the enactment of this Act.

SEC. 309. REPORT ON LEGAL STANDARDS APPLIED FOR ELECTRONIC SURVEILLANCE.

(a) **REPORT.**—Not later than 60 days after the date of the enactment of this Act, the Director of Central Intelligence, the Director of the National Security Agency, and the Attorney General shall jointly prepare, and the Director of the National Security Agency shall submit to the appropriate congressional committees, a report in classified and unclassified form providing a detailed analysis of the legal standards employed by elements of the intelligence community in conducting signals intelligence activities, including electronic surveillance.

(b) **MATTERS SPECIFICALLY ADDRESSED.**—The report shall specifically include a statement of each of the following legal standards:

(1) *The legal standards for interception of communications when such interception may result in the acquisition of information from a communication to or from United States persons.*

(2) *The legal standards for intentional targeting of the communications to or from United States persons.*

(3) *The legal standards for receipt from non-United States sources of information pertaining to communications to or from United States persons.*

(4) *The legal standards for dissemination of information acquired through the interception of the communications to or from United States persons.*

(c) **DEFINITIONS.**—*As used in this section:*

(1) *The term “intelligence community” has the meaning given that term under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).*

(2) *The term “United States persons” has the meaning given that term under section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(i)).*

(3) *The term “appropriate congressional committees” means the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate.*

SEC. 310. REPORT ON EFFECTS OF FOREIGN ESPIONAGE ON THE UNITED STATES.

Not later than 270 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to Congress a report describing the effects of espionage against the United States, conducted by or on behalf of other nations, on United States trade secrets, patents, and technology development. The report shall also include an analysis of other effects of such espionage on the United States.

SEC. 311. REPORT ON ACTIVITIES OF THE CENTRAL INTELLIGENCE AGENCY IN CHILE.

(a) **IN GENERAL.**—*By not later than 270 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the appropriate congressional committees a report describing all activities of officers, covert agents, and employees of all elements in the intelligence community with respect to the following events in the Republic of Chile:*

(1) *The assassination of President Salvador Allende in September 1973.*

(2) *The accession of General Augusto Pinochet to the Presidency of the Republic of Chile.*

(3) *Violations of human rights committed by officers or agents of former President Pinochet.*

(b) **DEFINITION.**—*In this section, the term “appropriate congressional committees” means the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives and the Select Committee on Intelligence and the Committee on Appropriations of the Senate.*

SEC. 312. REPORT ON KOSOVA LIBERATION ARMY.

(a) *REPORT.*—Not later than 30 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the appropriate congressional committees a report (in both classified and unclassified form) on the organized resistance in Kosovo known as the Kosova Liberation Army. The report shall include the following:

(1) A summary of the history of the Kosova Liberation Army.

(2) As of the date of the enactment of this Act—

(A) the number of individuals currently participating in or supporting combat operations of the Kosova Liberation Army (fielded forces), and the number of individuals in training for such service (recruits);

(B) the types, and quantity of each type, of weapon employed by the Kosova Liberation Army, the training afforded to such fielded forces in the use of such weapons, and the sufficiency of such training to conduct effective military operations; and

(C) minimum additional weaponry and training required to improve substantially the efficacy of such military operations.

(3) An estimate of the percentage of funding (if any) of the Kosova Liberation Army that is attributable to profits from the sale of illicit narcotics.

(4) A description of the involvement (if any) of the Kosova Liberation Army in terrorist activities.

(5) A description of the number of killings of noncombatant civilians (if any) carried out by the Kosova Liberation Army since its formation.

(6) A description of the leadership of the Kosova Liberation Army, including an analysis of—

(A) the political philosophy and program of the leadership; and

(B) the sentiment of the leadership toward the United States.

(b) *APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.*—As used in this section, the term “appropriate congressional committees” means the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

SEC. 313. REAFFIRMATION OF LONGSTANDING PROHIBITION AGAINST DRUG TRAFFICKING BY EMPLOYEES OF THE INTELLIGENCE COMMUNITY.

(a) *FINDING.*—Congress finds that longstanding statutes, regulations, and policies of the United States prohibit employees, agents, and assets of the elements of the intelligence community, and of every other Federal department and agency, from engaging in the illegal manufacture, purchase, sale, transport, and distribution of drugs.

(b) *OBLIGATION OF EMPLOYEES OF INTELLIGENCE COMMUNITY.*—Any employee of the intelligence community having knowledge of a fact or circumstance that reasonably indicates that an em-

ployee, agent, or asset of an element of the intelligence community is involved in any activity that violates a statute, regulation, or policy described in subsection (a) shall report such knowledge to an appropriate official.

(c) *INTELLIGENCE COMMUNITY DEFINED.*—In this section, the term “intelligence community” has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 314. SENSE OF CONGRESS ON CLASSIFICATION AND DECLASSIFICATION.

It is the sense of Congress that the systematic declassification of records of permanent historical value is in the public interest and that the management of classification and declassification by Executive branch agencies requires comprehensive reform and the dedication by the Executive branch of additional resources.

SEC. 315. SENSE OF CONGRESS ON INTELLIGENCE COMMUNITY CONTRACTING.

It is the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible with the national security interests of the United States and consistent with operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should competitively award contracts in a manner that maximizes the procurement of products properly designated as having been made in the United States.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. IMPROVEMENT AND EXTENSION OF CENTRAL SERVICES PROGRAM.

(a) *SCOPE OF PROVISION OF ITEMS AND SERVICES.*—Subsection (a) of section 21 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403u) is amended by striking “and to other” and inserting “, nonappropriated fund entities or instrumentalities associated or affiliated with the Agency, and other”.

(b) *DEPOSITS IN CENTRAL SERVICES WORKING CAPITAL FUND.*—Subsection (c)(2) of that section is amended—

(1) by amending subparagraph (D) to read as follows:

“(D) Amounts received in payment for loss or damage to equipment or property of a central service provider as a result of activities under the program.”;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D), as so amended, the following new subparagraph (E):

“(E) Other receipts from the sale or exchange of equipment or property of a central service provider as a result of activities under the program.”.

(c) *AVAILABILITY OF FEES.*—Subsection (f)(2)(A) of that section is amended by inserting “central service providers and any” before “elements of the Agency”.

(d) *EXTENSION OF PROGRAM.*—Subsection (h)(1) of that section is amended by striking “March 31, 2000” and inserting “March 31, 2002”.

SEC. 402. EXTENSION OF CIA VOLUNTARY SEPARATION PAY ACT.

(a) *EXTENSION OF AUTHORITY.*—Section 2(f) of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4 note) is amended by striking “September 30, 1999” and inserting “September 30, 2002”.

(b) *REMITTANCE OF FUNDS.*—Section 2(i) of that Act is amended by striking “or fiscal year 1999” and inserting “, 1999, 2000, 2001, or 2002”.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. PROTECTION OF OPERATIONAL FILES OF THE NATIONAL IMAGERY AND MAPPING AGENCY.

(a) *IN GENERAL.*—(1) Title I of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after section 105A (50 U.S.C. 403–5a) the following new section:

“PROTECTION OF OPERATIONAL FILES OF THE NATIONAL IMAGERY AND
MAPPING AGENCY

“SEC. 105B. (a) *EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE.*—(1) The Director of the National Imagery and Mapping Agency, with the coordination of the Director of Central Intelligence, may exempt operational files of the National Imagery and Mapping Agency from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

“(2)(A) Subject to subparagraph (B), for the purposes of this section, the term ‘operational files’ means files of the National Imagery and Mapping Agency (hereinafter in this section referred to as ‘NIMA’) concerning the activities of NIMA that before the establishment of NIMA were performed by the National Photographic Interpretation Center of the Central Intelligence Agency (NPIC), that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

“(B) Files which are the sole repository of disseminated intelligence are not operational files.

“(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

“(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code;

“(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code; or

“(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

“(i) The Permanent Select Committee on Intelligence of the House of Representatives.

“(ii) The Select Committee on Intelligence of the Senate.

“(iii) The Intelligence Oversight Board.

“(iv) The Department of Justice.

“(v) The Office of General Counsel of NIMA.

“(vi) The Office of the Director of NIMA.

“(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

“(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

“(C) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1) and which have been returned to exempted operational files for sole retention shall be subject to search and review.

“(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of this section, and which specifically cites and repeals or modifies its provisions.

“(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NIMA has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

“(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

“(i) In any case in which information specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NIMA, such information shall be examined *ex parte*, in camera by the court.

“(ii) The court shall, to the fullest extent practicable, determine the issues of fact based on sworn written submissions of the parties.

“(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

“(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NIMA shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in paragraph (2).

“(II) The court may not order NIMA to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NIMA’s showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

“(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

“(vi) If the court finds under this paragraph that NIMA has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NIMA to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

“(vii) If at any time following the filing of a complaint pursuant to this paragraph NIMA agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

“(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence prior to submission to the court.

“(b) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—

(1) Not less than once every ten years, the Director of the National Imagery and Mapping Agency and the Director of Central Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from the category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.

“(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

“(3) A complainant that alleges that NIMA has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court’s review shall be limited to determining the following:

“(A) Whether NIMA has conducted the review required by paragraph (1) before the expiration of the ten-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.

“(B) Whether NIMA, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.”.

(2) *The table of contents contained in the first section of such Act is amended by inserting after the item relating to section 105A the following new item:*

“Sec. 105B. Protection of operational files of the National Imagery and Mapping Agency.”.

(b) **TREATMENT OF CERTAIN TRANSFERRED RECORDS.**—*Any record transferred to the National Imagery and Mapping Agency from exempted operational files of the Central Intelligence Agency covered by section 701(a) of the National Security Act of 1947 (50 U.S.C. 431(a)) shall be placed in the operational files of the National Imagery and Mapping Agency that are established pursuant to section 105B of the National Security Act of 1947, as added by subsection (a).*

SEC. 502. FUNDING FOR INFRASTRUCTURE AND QUALITY OF LIFE IMPROVEMENTS AT MENWITH HILL AND BAD AIBLING STATIONS.

Section 506(b) of the Intelligence Authorization Act for Fiscal Year 1996 (Public Law 104–93; 109 Stat. 974), as amended by section 502 of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105–107; 111 Stat. 2262), is further amended by striking “for fiscal years 1998 and 1999” and inserting “for fiscal years 2000 and 2001”.

TITLE VI—FOREIGN COUNTERINTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

SEC. 601. EXPANSION OF DEFINITION OF “AGENT OF A FOREIGN POWER” FOR PURPOSES OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 101(b)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(2)) is amended—

- (1) in subparagraph (C), by striking “or” at the end;*
- (2) by redesignating subparagraph (D) as subparagraph (E); and*
- (3) by inserting after subparagraph (C) the following new subparagraph (D):*

“(D) knowingly enters the United States under a false or fraudulent identity for or on behalf of a foreign power or, while in the United States, knowingly assumes a false or fraudulent identity for or on behalf of a foreign power; or”.

SEC. 602. FEDERAL BUREAU OF INVESTIGATION REPORTS TO OTHER EXECUTIVE AGENCIES ON RESULTS OF COUNTERINTELLIGENCE ACTIVITIES.

Section 811(c)(2) of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103–359; 108 Stat. 3455; 50 U.S.C. 402a(c)(2)) is amended by striking “after a report has been provided pursuant to paragraph (1)(A)”.

TITLE VII—NATIONAL COMMISSION FOR THE REVIEW OF THE NATIONAL RE- CONNAISSANCE OFFICE

SEC. 701. FINDINGS.

Congress makes the following findings:

(1) *Imagery and signals intelligence satellites are vitally important to the security of the Nation.*

(2) *The National Reconnaissance Office (in this title referred to as the "NRO") and its predecessor organizations have helped protect and defend the United States for more than 30 years.*

(3) *The end of the Cold War and the enormous growth in usage of information technology have changed the environment in which the intelligence community must operate. At the same time, the intelligence community has undergone significant changes in response to dynamic developments in strategy and in budgetary matters. The acquisition and maintenance of satellite systems are essential to providing timely intelligence to national policymakers and achieving information superiority for military leaders.*

(4) *There is a need to evaluate the roles and mission, organizational structure, technical skills, contractor relationships, use of commercial imagery, acquisition of launch vehicles, launch services, and launch infrastructure, mission assurance, acquisition authorities, and relationship to other agencies and departments of the Federal Government of the NRO in order to assure continuing success in satellite reconnaissance in the new millennium.*

SEC. 702. NATIONAL COMMISSION FOR THE REVIEW OF THE NATIONAL RECONNAISSANCE OFFICE.

(a) **ESTABLISHMENT.**—*There is established a commission to be known as the "National Commission for the Review of the National Reconnaissance Office" (in this title referred to as the "Commission").*

(b) **COMPOSITION.**—*The Commission shall be composed of eleven members, as follows:*

(1) *The Deputy Director of Central Intelligence for Community Management.*

(2) *Three members appointed by the Majority Leader of the Senate, in consultation with the Chairman of the Select Committee on Intelligence of the Senate, one from Members of the Senate and two from private life.*

(3) *Two members appointed by the Minority Leader of the Senate, in consultation with the Vice Chairman of the Select Committee on Intelligence of the Senate, one from Members of the Senate and one from private life.*

(4) *Three members appointed by the Speaker of the House of Representatives, in consultation with the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives, one from Members of the House of Representatives and two from private life.*

(5) *Two members appointed by the Minority Leader of the House of Representatives, in consultation with the ranking member of the Permanent Select Committee on Intelligence of the House of Representatives, one from Members of the House of Representatives and one from private life.*

The Director of the National Reconnaissance Office shall be an ex officio member of the Commission.

(c) *MEMBERSHIP.—(1) The individuals appointed as members of the Commission shall be individuals who are nationally recognized for expertise, knowledge, or experience in—*

- (A) *technical intelligence collection systems and methods;*
- (B) *research and development programs;*
- (C) *acquisition management;*
- (D) *use of intelligence information by national policymakers and military leaders; or*
- (E) *the implementation, funding, or oversight of the national security policies of the United States.*

(2) *An official who appoints members of the Commission may not appoint an individual as a member of the Commission if, in the judgment of the official, such individual possesses any personal or financial interest in the discharge of any of the duties of the Commission.*

(3) *All members of the Commission appointed from private life shall possess an appropriate security clearance in accordance with applicable laws and regulations concerning the handling of classified information.*

(d) *CO-CHAIRS.—(1) The Commission shall have two co-chairs, selected from among the members of the Commission.*

(2) *One co-chair of the Commission shall be a member of the Democratic Party, and one co-chair shall be a member of the Republican Party.*

(3) *The individuals who serve as the co-chairs of the Commission shall be jointly agreed upon by the President, the Majority Leader of the Senate, the Minority Leader of the Senate, and Speaker of the House of Representatives, and the Minority Leader of the House of Representatives.*

(e) *APPOINTMENT; INITIAL MEETING.—(1) Members of the Commission shall be appointed not later than 45 days after the date of the enactment of this Act.*

(2) *The Commission shall hold its initial meeting on the date that is 60 days after the date of the enactment of this Act.*

(f) *MEETINGS; QUORUM; VACANCIES.—(1) After its initial meeting, the Commission shall meet upon the call of the co-chairs of the Commission.*

(2) *Six members of the Commission shall constitute a quorum for purposes of conducting business, except that two members of the Commission shall constitute a quorum for purposes of receiving testimony.*

(3) *Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.*

(4) *If vacancies in the Commission occur on any day after 45 days after the date of the enactment of this Act, a quorum shall consist of a majority of the members of the Commission as of such day.*

(g) **ACTIONS OF COMMISSION.**—(1) *The Commission shall act by resolution agreed to by a majority of the members of the Commission voting and present.*

(2) *The Commission may establish panels composed of less than the full membership of the Commission for purposes of carrying out the duties of the Commission under this title. The actions of any such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.*

(3) *Any member, agent, or staff of the Commission may, if authorized by the co-chairs of the Commission, take any action which the Commission is authorized to take pursuant to this title.*

SEC. 703. DUTIES OF COMMISSION.

(a) **IN GENERAL.**—*The duties of the Commission shall be—*

(1) *to conduct, until not later than the date on which the Commission submits the report under section 708(a), the review described in subsection (b); and*

(2) *to submit to the congressional intelligence committees, the Director of Central Intelligence, and the Secretary of Defense a final report on the results of the review.*

(b) **REVIEW.**—*The Commission shall review the current organization, practices, and authorities of the NRO, in particular with respect to—*

(1) *roles and mission;*

(2) *organizational structure;*

(3) *technical skills;*

(4) *contractor relationships;*

(5) *use of commercial imagery;*

(6) *acquisition of launch vehicles, launch services, and launch infrastructure, and mission assurance;*

(7) *acquisition authorities; and*

(8) *relationships with other agencies and departments of the Federal Government.*

SEC. 704. POWERS OF COMMISSION.

(a) **IN GENERAL.**—(1) *The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title—*

(A) *hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths, and*

(B) *require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member considers necessary.*

(2) *Subpoenas may be issued under paragraph (1)(B) under the signature of the co-chairs of the Commission, and may be served by any person designated by such co-chairs.*

(3) *The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192-194) shall apply in the case of any failure of a witness to comply with any subpoena or to testify when summoned under authority of this section.*

(b) *CONTRACTING.*—The Commission may, to such extent and in such amounts as are provided in advance in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) *INFORMATION FROM FEDERAL AGENCIES.*—The Commission may secure directly from any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each such department, agency, bureau, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request of the co-chairs of the Commission. The Commission shall handle and protect all classified information provided to it under this section in accordance with applicable statutes and regulations.

(d) *ASSISTANCE FROM FEDERAL AGENCIES.*—(1) The Director of Central Intelligence shall provide to the Commission, on a non-reimbursable basis, such administrative services, funds, staff, facilities, and other support services as are necessary for the performance of the Commission's duties under this title.

(2) The Secretary of Defense may provide the Commission, on a nonreimbursable basis, with such administrative services, staff, and other support services as the Commission may request.

(3) In addition to the assistance set forth in paragraphs (1) and (2), other departments and agencies of the United States may provide the Commission such services, funds, facilities, staff, and other support as such departments and agencies consider advisable and as may be authorized by law.

(4) The Commission shall receive the full and timely cooperation of any official, department, or agency of the United States Government whose assistance is necessary for the fulfillment of the duties of the Commission under this title, including the provision of full and current briefings and analyses.

(e) *PROHIBITION ON WITHHOLDING INFORMATION.*—No department or agency of the Government may withhold information from the Commission on the grounds that providing the information to the Commission would constitute the unauthorized disclosure of classified information or information relating to intelligence sources or methods.

(f) *POSTAL SERVICES.*—The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the United States.

(g) *GIFTS.*—The Commission may accept, use, and dispose of gifts or donations of services or property in carrying out its duties under this title.

SEC. 705. STAFF OF COMMISSION.

(a) *IN GENERAL.*—(1) The co-chairs of the Commission, in accordance with rules agreed upon by the Commission, shall appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its duties, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III or

chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of such title.

(2) Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(3) All staff of the Commission shall possess a security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

(b) **CONSULTANT SERVICES.**—(1) The Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title.

(2) All experts and consultants employed by the Commission shall possess a security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

SEC. 706. COMPENSATION AND TRAVEL EXPENSES.

(a) **COMPENSATION.**—(1) Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission under this title.

(2) Members of the Commission who are officers or employees of the United States or Members of Congress shall receive no additional pay by reason of their service on the Commission.

(b) **TRAVEL EXPENSES.**—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 707. TREATMENT OF INFORMATION RELATING TO NATIONAL SECURITY.

(a) **IN GENERAL.**—(1) The Director of Central Intelligence shall assume responsibility for the handling and disposition of any information related to the national security of the United States that is received, considered, or used by the Commission under this title.

(2) Any information related to the national security of the United States that is provided to the Commission by a congressional intelligence committee may not be further provided or released without the approval of the chairman of such committee.

(b) **ACCESS AFTER TERMINATION OF COMMISSION.**—Notwithstanding any other provision of law, after the termination of the Commission under section 708, only the Members and designated staff of the congressional intelligence committees, the Director of

Central Intelligence and the designees of the Director, and such other officials of the executive branch as the President may designate shall have access to information related to the national security of the United States that is received, considered, or used by the Commission.

SEC. 708. FINAL REPORT; TERMINATION.

(a) *FINAL REPORT.*—Not later than November 1, 2000, the Commission shall submit to the congressional intelligence committees, the Director of Central Intelligence, and the Secretary of Defense a final report as required by section 703(a).

(b) *TERMINATION.*—(1) *The Commission, and all the authorities of this title, shall terminate at the end of the 120-day period beginning on the date on which the final report under subsection (a) is transmitted to the congressional intelligence committees.*

(2) *The Commission may use the 120-day period referred to in paragraph (1) for the purposes of concluding its activities, including providing testimony to committees of Congress concerning the final report referred to in that paragraph and disseminating the report.*

SEC. 709. ASSESSMENTS OF FINAL REPORT.

Not later than 60 days after receipt of the final report under section 708(a), the Director of Central Intelligence and the Secretary of Defense shall each submit to the congressional intelligence committees an assessment by the Director or the Secretary, as the case may be, of the final report. Each assessment shall include such comments on the findings and recommendations contained in the final report as the Director or Secretary, as the case may be, considers appropriate.

SEC. 710. INAPPLICABILITY OF CERTAIN ADMINISTRATIVE PROVISIONS.

(a) *FEDERAL ADVISORY COMMITTEE ACT.*—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Commission under this title.

(b) *FREEDOM OF INFORMATION ACT.*—The provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), shall not apply to the activities, records, and proceedings of the Commission under this title.

SEC. 711. FUNDING.

(a) *TRANSFER FROM NRO.*—Of the amounts authorized to be appropriated by this Act for the National Reconnaissance Office, the Director of the National Reconnaissance Office shall transfer to the Director of Central Intelligence \$5,000,000 for purposes of the activities of the Commission under this title.

(b) *AVAILABILITY IN GENERAL.*—The Director of Central Intelligence shall make available to the Commission, from the amount transferred to the Director under subsection (a), such amounts as the Commission may require for purposes of the activities of the Commission under this title.

(c) *DURATION OF AVAILABILITY.*—Amounts made available to the Commission under subsection (b) shall remain available until expended.

SEC. 712. CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.

In this title, the term “congressional intelligence committees” means the following:

- (1) The Select Committee on Intelligence of the Senate.*
- (2) The Permanent Select Committee on Intelligence of the House of Representatives.*

TITLE VIII—INTERNATIONAL NARCOTICS TRAFFICKING

SEC. 801. SHORT TITLE.

This title may be cited as the “Foreign Narcotics Kingpin Designation Act”.

SEC. 802. FINDINGS AND POLICY.

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

(1) Presidential Decision Directive 42, issued on October 21, 1995, ordered agencies of the executive branch of the United States Government to, inter alia, increase the priority and resources devoted to the direct and immediate threat international crime presents to national security, work more closely with other governments to develop a global response to this threat, and use aggressively and creatively all legal means available to combat international crime.

(2) Executive Order No. 12978 of October 21, 1995, provides for the use of the authorities in the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 et seq.) to target and apply sanctions to 4 international narcotics traffickers and their organizations that operate from Colombia.

(3) IEEPA was successfully applied to international narcotics traffickers in Colombia and based on that successful case study, Congress believes similar authorities should be applied worldwide.

(4) There is a national emergency resulting from the activities of international narcotics traffickers and their organizations that threatens the national security, foreign policy, and economy of the United States.

(b) POLICY.—It shall be the policy of the United States to apply economic and other financial sanctions to significant foreign narcotics traffickers and their organizations worldwide to protect the national security, foreign policy, and economy of the United States from the threat described in subsection (a)(4).

SEC. 803. PURPOSE.

The purpose of this title is to provide authority for the identification of, and application of sanctions on a worldwide basis to, significant foreign narcotics traffickers, their organizations, and the foreign persons who provide support to those significant foreign narcotics traffickers and their organizations, whose activities threaten the national security, foreign policy, and economy of the United States.

SEC. 804. PUBLIC IDENTIFICATION OF SIGNIFICANT FOREIGN NARCOTICS TRAFFICKERS AND REQUIRED REPORTS.

(a) *PROVISION OF INFORMATION TO THE PRESIDENT.*—The Secretary of the Treasury, the Attorney General, the Secretary of Defense, the Secretary of State, and the Director of Central Intelligence shall consult among themselves and provide the appropriate and necessary information to enable the President to submit the report under subsection (b). This information shall also be provided to the Director of the Office of National Drug Control Policy.

(b) *PUBLIC IDENTIFICATION AND SANCTIONING OF SIGNIFICANT FOREIGN NARCOTICS TRAFFICKERS.*—Not later than June 1, 2000, and not later than June 1 of each year thereafter, the President shall submit a report to the Permanent Select Committee on Intelligence, and the Committees on the Judiciary, International Relations, Armed Services, and Ways and Means of the House of Representatives; and to the Select Committee on Intelligence, and the Committees on the Judiciary, Foreign Relations, Armed Services, and Finance of the Senate—

(1) identifying publicly the foreign persons that the President determines are appropriate for sanctions pursuant to this title; and

(2) detailing publicly the President's intent to impose sanctions upon these significant foreign narcotics traffickers pursuant to this title.

The report required in this subsection shall not include information on persons upon which United States sanctions imposed under this title, or otherwise on account of narcotics trafficking, are already in effect.

(c) *UNCLASSIFIED REPORT REQUIRED.*—The report required by subsection (b) shall be submitted in unclassified form and made available to the public.

(d) *CLASSIFIED REPORT.*—(1) Not later than July 1, 2000, and not later than July 1 of each year thereafter, the President shall provide the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate with a report in classified form describing in detail the status of the sanctions imposed under this title, including the personnel and resources directed towards the imposition of such sanctions during the preceding fiscal year, and providing background information with respect to newly-identified significant foreign narcotics traffickers and their activities.

(2) Such classified report shall describe actions the President intends to undertake or has undertaken with respect to such significant foreign narcotics traffickers.

(3) The report required under this subsection is in addition to the President's obligations to keep the intelligence committees of Congress fully and currently informed pursuant to the provisions of the National Security Act of 1947.

(e) *EXCLUSION OF CERTAIN INFORMATION.*—

(1) *INTELLIGENCE.*—Notwithstanding any other provision of this section, the reports described in subsections (b) and (d) shall not disclose the identity of any person, if the Director of Central Intelligence determines that such disclosure could com-

promise an intelligence operation, activity, source, or method of the United States.

(2) LAW ENFORCEMENT.—Notwithstanding any other provision of this section, the reports described in subsections (b) and (d) shall not disclose the name of any person if the Attorney General, in coordination as appropriate with the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, and the Secretary of the Treasury, determines that such disclosure could reasonably be expected to—

(A) compromise the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution that furnished information on a confidential basis;

(B) jeopardize the integrity or success of an ongoing criminal investigation or prosecution;

(C) endanger the life or physical safety of any person; or

(D) cause substantial harm to physical property.

(f) NOTIFICATION REQUIRED.—(1) Whenever either the Director of Central Intelligence or the Attorney General makes a determination under subsection (e), the Director of Central Intelligence or the Attorney General shall notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, and explain the reasons for such determination.

(2) The notification required under this subsection shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate not later than July 1, 2000, and on an annual basis thereafter.

(g) DETERMINATIONS NOT TO APPLY SANCTIONS.—(1) The President may waive the application to a significant foreign narcotics trafficker of any sanction authorized by this title if the President determines that the application of sanctions under this title would significantly harm the national security of the United States.

(2) When the President determines not to apply sanctions that are authorized by this title to any significant foreign narcotics trafficker, the President shall notify the Permanent Select Committee on Intelligence, and the Committees on the Judiciary, International Relations, Armed Services, and Ways and Means of the House of Representatives, and the Select Committee on Intelligence, and the Committees on the Judiciary, Foreign Relations, Armed Services, and Finance of the Senate not later than 21 days after making such determination.

(h) CHANGES IN DETERMINATIONS TO IMPOSE SANCTIONS.—

(1) ADDITIONAL DETERMINATIONS.—(A) If at any time after the report required under subsection (b) the President finds that a foreign person is a significant foreign narcotics trafficker and such foreign person has not been publicly identified in a report required under subsection (b), the President shall submit an additional public report containing the information described in subsection (b) with respect to such foreign person to the Permanent Select Committee on Intelligence, and the Committees on the Judiciary, International Relations, Armed Services, and Ways and Means of the House of Representatives, and the Select

Committee on Intelligence, and the Committees on the Judiciary, Foreign Relations, Armed Services, and Finance of the Senate.

(B) The President may apply sanctions authorized under this title to the significant foreign narcotics trafficker identified in the report submitted under subparagraph (A) as if the trafficker were originally included in the report submitted pursuant to subsection (b) of this section.

(C) The President shall notify the Secretary of the Treasury of any determination made under this paragraph.

(2) REVOCATION OF DETERMINATION.—(A) Whenever the President finds that a foreign person that has been publicly identified as a significant foreign narcotics trafficker in the report required under subsection (b) or this subsection no longer engages in those activities for which sanctions under this title may be applied, the President shall issue public notice of such a finding.

(B) Not later than the date of the public notice issued pursuant to subparagraph (A), the President shall notify, in writing and in classified or unclassified form, the Permanent Select Committee on Intelligence, and the Committees on the Judiciary, International Relations, Armed Services, and Ways and Means of the House of Representatives, and the Select Committee on Intelligence, and the Committees on the Judiciary, Foreign Relations, Armed Services, and Finance of the Senate of actions taken under this paragraph and a description of the basis for such actions.

SEC. 805. BLOCKING ASSETS AND PROHIBITING TRANSACTIONS.

(a) APPLICABILITY OF SANCTIONS.—A significant foreign narcotics trafficker publicly identified in the report required under subsection (b) or (h)(1) of section 804 and foreign persons designated by the Secretary of the Treasury pursuant to subsection (b) of this section shall be subject to any and all sanctions as authorized by this title. The application of sanctions on any foreign person pursuant to subsection (b) or (h)(1) of section 804 or subsection (b) of this section shall remain in effect until revoked pursuant to section 804(h)(2) or subsection (e)(1)(A) of this section or waived pursuant to section 804(g)(1).

(b) BLOCKING OF ASSETS.—Except to the extent provided in regulations, orders, instructions, licenses, or directives issued pursuant to this title, and notwithstanding any contract entered into or any license or permit granted prior to the date on which the President submits the report required under subsection (b) or (h)(1) of section 804, there are blocked as of such date, and any date thereafter, all such property and interests in property within the United States, or within the possession or control of any United States person, which are owned or controlled by—

(1) any significant foreign narcotics trafficker publicly identified by the President in the report required under subsection (b) or (h)(1) of section 804;

(2) any foreign person that the Secretary of the Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Adminis-

tration, the Secretary of Defense, and the Secretary of State, designates as materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a significant foreign narcotics trafficker so identified in the report required under subsection (b) or (h)(1) of section 804, or foreign persons designated by the Secretary of the Treasury pursuant to this subsection;

(3) any foreign person that the Secretary of the Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, and the Secretary of State, designates as owned, controlled, or directed by, or acting for or on behalf of, a significant foreign narcotics trafficker so identified in the report required under subsection (b) or (h)(1) of section 804, or foreign persons designated by the Secretary of the Treasury pursuant to this subsection; and

(4) any foreign person that the Secretary of the Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, and the Secretary of State, designates as playing a significant role in international narcotics trafficking.

(c) **PROHIBITED TRANSACTIONS.**—Except to the extent provided in regulations, orders, instructions, licenses, or directives issued pursuant to this title, and notwithstanding any contract entered into or any license or permit granted prior to the date on which the President submits the report required under subsection (b) or (h)(1) of section 804, the following transactions are prohibited:

(1) Any transaction or dealing by a United States person, or within the United States, in property or interests in property of any significant foreign narcotics trafficker so identified in the report required pursuant to subsection (b) or (h)(1) of section 804, and foreign persons designated by the Secretary of the Treasury pursuant to subsection (b) of this section.

(2) Any transaction or dealing by a United States person, or within the United States, that evades or avoids, or has the effect of evading or avoiding, and any endeavor, attempt, or conspiracy to violate, any of the prohibitions contained in this title.

(d) **LAW ENFORCEMENT AND INTELLIGENCE ACTIVITIES NOT AFFECTED.**—Nothing in this title prohibits or otherwise limits the authorized law enforcement or intelligence activities of the United States, or the law enforcement activities of any State or subdivision thereof.

(e) **IMPLEMENTATION.**—(1) The Secretary of the Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, and the Secretary of State, is authorized to take such actions as may be necessary to carry out this title, including—

(A) making those designations authorized by paragraphs (2), (3), and (4) of subsection (b) of this section and revocation thereof;

(B) promulgating rules and regulations permitted under this title; and

(C) employing all powers conferred on the Secretary of the Treasury under this title.

(2) Each agency of the United States shall take all appropriate measures within its authority to carry out the provisions of this title.

(3) Section 552(a)(3) of title 5, United States Code, shall not apply to any record or information obtained or created in the implementation of this title.

(f) **JUDICIAL REVIEW.**—The determinations, identifications, findings, and designations made pursuant to section 804 and subsection (b) of this section shall not be subject to judicial review.

SEC. 806. AUTHORITIES.

(a) **IN GENERAL.**—To carry out the purposes of this title, the Secretary of the Treasury may, under such regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(1) investigate, regulate, or prohibit—

(A) any transactions in foreign exchange, currency, or securities; and

(B) transfers of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interests of any foreign country or a national thereof; and

(2) investigate, block during the pendency of an investigation, regulate, direct and compel, nullify, void, prevent, or prohibit any acquisition, holding, withholding, use, transfer, withdrawal, transportation, placement into foreign or domestic commerce 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.

(b) **RECORDKEEPING.**—Pursuant to subsection (a), the Secretary of the Treasury may require recordkeeping, reporting, and production of documents to carry out the purposes of this title.

(c) **DEFENSES.**—

(1) Full and actual compliance with any regulation, order, license, instruction, or direction issued under this title shall be a defense in any proceeding alleging a violation of any of the provisions of this title.

(2) 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.

(d) **RULEMAKING.**—The Secretary of the Treasury may issue such other regulations or orders, including regulations prescribing recordkeeping, reporting, and production of documents, definitions,

licenses, instructions, or directions, as may be necessary for the exercise of the authorities granted by this title.

SEC. 807. ENFORCEMENT.

(a) **CRIMINAL PENALTIES.**—(1) Whoever willfully violates the provisions of this title, or any license rule, or regulation issued pursuant to this title, or willfully neglects or refuses to comply with any order of the President issued under this title shall be—

(A) imprisoned for not more than 10 years,

(B) fined in the amount provided in title 18, United States Code, or, in the case of an entity, fined not more than \$10,000,000,

or both.

(2) Any officer, director, or agent of any entity who knowingly participates in a violation of the provisions of this title shall be imprisoned for not more than 30 years, fined not more than \$5,000,000, or both.

(b) **CIVIL PENALTIES.**—A civil penalty not to exceed \$1,000,000 may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this title.

(c) **JUDICIAL REVIEW OF CIVIL PENALTY.**—Any penalty imposed under subsection (b) shall be subject to judicial review only to the extent provided in section 702 of title 5, United States Code.

SEC. 808. DEFINITIONS.

As used in this title:

(1) **ENTITY.**—The term “entity” means a partnership, joint venture, association, corporation, organization, network, group, or subgroup, or any form of business collaboration.

(2) **FOREIGN PERSON.**—The term “foreign person” means any citizen or national of a foreign state or any entity not organized under the laws of the United States, but does not include a foreign state.

(3) **NARCOTICS TRAFFICKING.**—The term “narcotics trafficking” means any illicit activity to cultivate, produce, manufacture, distribute, sell, finance, or transport narcotic drugs, controlled substances, or listed chemicals, or otherwise endeavor or attempt to do so, or to assist, abet, conspire, or collude with others to do so.

(4) **NARCOTIC DRUG; CONTROLLED SUBSTANCE; LISTED CHEMICAL.**—The terms “narcotic drug”, “controlled substance”, and “listed chemical” have the meanings given those terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(5) **PERSON.**—The term “person” means an individual or entity.

(6) **UNITED STATES PERSON.**—The term “United States person” means any United States citizen or national, permanent resident alien, an entity organized under the laws of the United States (including its foreign branches), or any person within the United States.

(7) **SIGNIFICANT FOREIGN NARCOTICS TRAFFICKER.**—The term “significant foreign narcotics trafficker” means any foreign person that plays a significant role in international narcotics trafficking, that the President has determined to be appropriate

for sanctions pursuant to this title, and that the President has publicly identified in the report required under subsection (b) or (h)(1) of section 804.

SEC. 809. EXCLUSION OF PERSONS WHO HAVE BENEFITED FROM IL-LICIT ACTIVITIES OF DRUG TRAFFICKERS.

Section 212(a)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(C)) is amended to read as follows:

“(C) **CONTROLLED SUBSTANCE TRAFFICKERS.**—Any alien who the consular officer or the Attorney General knows or has reason to believe—

“(i) is or has been an illicit trafficker in any controlled substance or in any listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or is or has been a knowing aider, abettor, assister, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so; or

“(ii) is the spouse, son, or daughter of an alien inadmissible under clause (i), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reasonably should have known that the financial or other benefit was the product of such illicit activity,

is inadmissible.”.

SEC. 810. JUDICIAL REVIEW COMMISSION ON FOREIGN ASSET CONTROL.

(a) **ESTABLISHMENT.**—There is established a commission to be known as the “Judicial Review Commission on Foreign Asset Control” (in this section referred to as the “Commission”).

(b) **MEMBERSHIP AND PROCEDURAL MATTERS.**—(1) The Commission shall be composed of five members, as follows:

(A) One member shall be appointed by the Chairman of the Select Committee on Intelligence of the Senate.

(B) One member shall be appointed by the Vice Chairman of the Select Committee on Intelligence of the Senate.

(C) One member shall be appointed by the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives.

(D) One member shall be appointed by the Ranking Minority Member of the Permanent Select Committee on Intelligence of the House of Representatives.

(E) One member shall be appointed jointly by the members appointed under subparagraphs (A) through (D).

(2) Each member of the Commission shall, for purposes of the activities of the Commission under this section, possess or obtain an appropriate security clearance in accordance with applicable laws and regulations regarding the handling of classified information.

(3) The members of the Commission shall choose the chairman of the Commission from among the members of the Commission.

(4) The members of the Commission shall establish rules governing the procedures and proceedings of the Commission.

(c) **DUTIES.**—The Commission shall have as its duties the following:

(1) *To conduct a review of the current judicial, regulatory, and administrative authorities relating to the blocking of assets of foreign persons by the United States Government.*

(2) *To conduct a detailed examination and evaluation of the remedies available to United States persons affected by the blocking of assets of foreign persons by the United States Government.*

(d) *POWERS.—(1) 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 the purposes of this section.*

(2) *The Commission may secure directly from any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this section. Each such department, agency, bureau, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request of the chairman of the Commission. The Commission shall handle and protect all classified information provided to it under this section in accordance with applicable statutes and regulations.*

(3) *The Attorney General and the Secretary of the Treasury shall provide to the Commission, on a nonreimbursable basis, such administrative services, funds, facilities, and other support services as are necessary for the performance of the Commission's duties under this section.*

(4) *The Commission shall receive the full and timely cooperation of any official, department, or agency of the United States Government whose assistance is necessary for the fulfillment of the duties of the Commission under this section, including the provision of full and current briefings and analyses.*

(5) *No department or agency of the Government may withhold information from the Commission on the grounds that providing the information to the Commission would constitute the unauthorized disclosure of classified information or information relating to intelligence sources or methods.*

(6) *The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the United States.*

(e) *STAFF.—(1) Subject to paragraph (2), the chairman of the Commission, in accordance with rules agreed upon by the Commission, shall appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its duties, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III or chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of such title.*

(2)(A) *Any employee of a department or agency referred to in subparagraph (B) may be detailed to the Commission without reim-*

bursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(B) The departments and agencies referred to in this subparagraph are as follows:

- (i) The Department of Justice.
- (ii) The Department of the Treasury.
- (iii) The Central Intelligence Agency.

(3) All staff of the Commission shall possess a security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

(f) COMPENSATION AND TRAVEL EXPENSES.—(1)(A) Except as provided in subparagraph (B), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission under this section.

(B) Members of the Commission who are officers or employees of the United States shall receive no additional pay by reason of their service on the Commission.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(g) REPORT.—(1) Not later than one year after the date of the enactment of this Act, the Commissions shall submit to the committees of Congress referred to in paragraph (4) a report on the activities of the Commission under this section, including the findings, conclusions, and recommendations, if any, of the Commission as a result of the review under subsection (c)(1) and the examination and evaluation under subsection (c)(2).

(2) The report under paragraph (1) shall include any additional or dissenting views of a member of the Commission upon the request of the member.

(3) The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(4) The committees of Congress referred to in this paragraph are the following:

(A) The Select Committee on Intelligence and the Committees on Foreign Relations and the Judiciary of the Senate.

(B) The Permanent Select Committee on Intelligence and the Committees on International Relations and the Judiciary of the House of Representatives.

(h) TERMINATION.—The Commission shall terminate at the end of the 60-day period beginning on the date on which the report required by subsection (g) is submitted to the committees of Congress referred to in that subsection.

(i) INAPPLICABILITY OF CERTAIN ADMINISTRATIVE PROVISIONS.—(1) The provisions of the Federal Advisory Committee Act (5.S.C. App.) shall not apply to the activities of the Commission under this section.

(2) *The provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), shall not apply to the activities, records, and proceedings of the Commission under this title.*

(j) *FUNDING.—The Attorney General shall, from amounts authorized to be appropriated to the Attorney General by this Act, make available to the Commission \$1,000,000 for purposes of the activities of the Commission under this section. Amounts made available to the Commission under the preceding sentence shall remain available until expended.*

SEC. 811. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act.

And the Senate agree to the same.

From the Permanent Select Committee on Intelligence, for consideration of the Senate amendment, and the House bill, and modifications committed to conference:

PORTER GOSS,
JERRY LEWIS,
BILL MCCOLLUM,
MICHAEL N. CASTLE,
SHERWOOD BOEHLERT,
CHARLES F. BASS,
JIM GIBBONS,
RAY LAHOOD,
HEATHER WILSON,
JULIAN C. DIXON,
NANCY PELOSI,
SANFORD BISHOP, Jr.,
NORMAN SISISKY,
GARY CONDIT.

From the Committee on Armed Services, for consideration of defense tactical intelligence and related activities:

FLOYD SPENCE,
BOB STUMP,
ROBERT E. ANDREWS,

Managers on the Part of the House.

From the Select Committee on Intelligence:

RICHARD SHELBY,
BOB KERREY,
RICHARD G. LUGAR,
MIKE DEWINE,
JON KYL,
JIM INHOFE,
ORRIN HATCH,
PAT ROBERTS,
WAYNE ALLARD,
RICHARD H. BRYAN,
BOB GRAHAM,
JOHN F. KERRY,
MAX BAUCUS,
CHUCK ROBB,
FRANK R. LAUTENBERG.

From the Committee on Armed Services:

JOHN WARNER,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the Senate and the House at the conference on the disagreeing votes of the two Houses on the

amendment of the Senate to the bill (H.R. 1555) to authorize appropriations for fiscal year 2000 for intelligence and the 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, submit the following joint statement to the Senate and the House in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

The managers agree that the congressionally directed actions described in the respective committee reports or classified annexes should be undertaken to the extent that such congressionally directed actions are not amended, altered, or otherwise specifically addressed in either this Joint Explanatory Statement or in the classified annex to the conference report on the bill H.R. 1555.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS

Section 101 of the conference report lists the departments, agencies, and other elements of the United States Government for whose intelligence and intelligence related activities the Act authorizes appropriations for fiscal year 2000. Section 101 is identical to section 101 of the House bill and section 101 of the Senate amendment.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS

Section 102 of the conference report makes clear that the details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and applicable personnel ceilings covered under this title for fiscal year 2000 are contained in a classified Schedule of Authorizations. The classified Schedule of Authorizations is incorporated into the Act by this section. The details of the Schedule are explained in the classified annex to this report. Section 102 is similar to section 102 of the House bill and section 102 of the Senate amendment.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS

Section 103 of the conference report authorizes the Director of Central Intelligence, with the approval of the Director of the Office of Management and Budget, in fiscal year 2000 to authorize employment of civilian personnel in excess of the personnel ceilings applicable to the components of the Intelligence Community under section 102 by an amount not to exceed two percent of the total of the ceilings applicable under section 102. The Director of Central Intelligence may exercise this authority only when doing so is nec-

essary to the performance of important intelligence functions. Any exercise of this authority must be reported to the two intelligence committees of the Congress.

The managers emphasize that the authority conferred by section 103 is not intended to permit the wholesale raising of personnel strength in any intelligence component. Rather, the section provides the Director of Central Intelligence with flexibility to adjust personnel levels temporarily for contingencies and for overages caused by an imbalance between hiring of new employees and attrition of current employees. The managers do not expect the Director of Central Intelligence to allow heads of intelligence components to plan to exceed levels set in the Schedule of Authorizations except for the satisfaction of clearly identified hiring needs which are consistent with the authorization of personnel strengths in this bill. In no case is this authority to be used to provide for positions denied by this bill. Section 103 is identical to section 103 of the House bill and section 103 of the Senate amendment.

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

Section 104 of the conference report authorizes appropriations for the Community Management Account for the Director of Central Intelligence and sets the personnel end-strength for the Intelligence Community Management Staff for fiscal year 2000.

Subsection (a) authorizes appropriations of \$170,672,000 for fiscal year 2000 for the activities of the Community Management Account (CMA) of the Director of Central Intelligence.

The House bill and the Senate amendment were nearly identical.

The Senate amendment, however, contained a provision earmarking funds from the CMA for the Information Security Oversight Office (ISOO). The House bill did not include a similar provision. The House recedes to the Senate position with a modification. The managers have agreed to delete the provision earmarking Community Management funds for the ISOO. The managers agree that authorizing funds from the CMA for the ISOO is an inappropriate allocation of intelligence community funds.

Subsection (b) authorizes 348 full-time personnel for the Community Management Staff for fiscal year 2000 and provides that such personnel may be permanent employees of the Staff or detailed from various elements of the United States Government.

Subsection (c) authorizes additional appropriations and personnel for the Community Management Account as specified in the classified Schedule of Authorizations and permits these additional amounts to remain available through September 30, 2001.

Subsection (d) requires, except as provided in Section 113 of the National Security Act of 1947 or for temporary situations of less than one year, that personnel from another element of the United States Government be detailed to an element of the Community Management Account on a reimbursable basis.

Subsection (e) authorizes \$27,000,000 of the amount authorized in subsection (a) to be made available for the National Drug Intelligence Center (NDIC).

SEC. 105. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL
APPROPRIATIONS FOR FISCAL YEAR 1999

Section 105 specifically authorizes, for purposes of section 504 of the National Security Act of 1947, those intelligence and intelligence-related activities that were deemed to have been authorized, pursuant to that section, through the 1999 Emergency Supplemental Appropriations Act (P.L. 106-31). A provision similar to section 105 was included in the House bill but was not included in the Senate amendment. The Senate recedes to the House position. The managers agreed to include this provision based on the requirements of section 504 of the National Security Act of 1947.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND
DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

Section 201 is identical to section 201 of the House bill and section 201 of the Senate amendment.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS
AUTHORIZED BY LAW

Section 301 is identical to section 301 of the House bill and section 301 of the Senate amendment.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

Section 302 is identical to section 302 of the House bill and section 302 of the Senate amendment.

SEC. 303. DIPLOMATIC INTELLIGENCE SUPPORT CENTERS

Section 303 of the conference report limits the establishment, operation, or maintenance of Diplomatic Intelligence Support Centers (DISCs) in fiscal year 2000 and precludes the obligation or expenditure of any funds appropriated for fiscal year 2000 for any purpose related to DISCs, without the prior approval of the Director of Central Intelligence (DCI).

The managers direct that prior to any NFIP funds being spent to establish a DISC, the DCI must, within three days of his approval of the establishment of a DISC, advise the congressional intelligence committees of his determination that the approved DISC is required to provide necessary intelligence support in furtherance of the national security interests of the United States.

Neither the House bill nor the Senate amendment contained a similar provision. Prior to the meeting of conferees, however, the managers learned of efforts by the Department of State to establish a DISC and found the concept unwise. The managers are not convinced that the DISC model is an appropriate means for providing intelligence support to diplomatic missions. This is specifically so where there is already ample intelligence support at the disposal of the chief of a diplomatic mission. Notwithstanding this provision limiting the establishment, operation, or maintenance of DISCs,

the managers strongly believe that intelligence support to diplomatic missions is one of the very highest intelligence priorities.

Nothing in this provision precludes the Department of State from deploying Bureau of Intelligence and Research analysts to any location where the Secretary of State determines there is a need for such support. Likewise, this provision does not inhibit the Director of Central Intelligence from deciding the appropriate level of, or the manner in which, intelligence support to U.S. diplomatic missions shall be accomplished. The managers have specifically identified in the classified annex to this conference report the type of intelligence support that is unaffected by this provision.

SEC. 304. PROTECTION OF IDENTITY OF RETIRED COVERT AGENTS

The House bill contained a similar provision. The Senate amendment did not. The Senate recedes to the House with a modification replacing the mandatory minimum sentencing provision in the House bill with a provision specifying that terms of imprisonment imposed under the section shall be served consecutively to any other sentence of imprisonment.

SEC. 305. ACCESS TO COMPUTERS AND COMPUTER DATA OF EXECUTIVE BRANCH EMPLOYEES WITH ACCESS TO CLASSIFIED INFORMATION

The Senate amendment contained a similar provision. The House bill did not. The House recedes to the Senate position.

SEC. 306. NATURALIZATION OF CERTAIN PERSONS AFFILIATED WITH A COMMUNIST OR SIMILAR PARTY

The Senate amendment contained a similar provision. The House bill did not. The House recedes to the Senate position.

SEC. 307. TECHNICAL AMENDMENT

The Senate amendment contained a similar provision. The House bill did not. The House recedes to the Senate position.

SEC. 308. DECLASSIFICATION REVIEW OF INTELLIGENCE ESTIMATE ON VIETNAM-ERA PRISONERS OF WAR AND MISSING IN ACTION PERSONNEL AND CRITICAL ASSESSMENT OF ESTIMATE

The Senate amendment contained a similar provision. The House bill did not. The House recedes to the Senate position.

SEC. 309. REPORT ON LEGAL STANDARDS APPLIED FOR ELECTRONIC SURVEILLANCE

The House bill and Senate amendment contained similar provisions. The Senate recedes to the House provision with a modification.

SEC. 310. REPORT ON EFFECTS OF FOREIGN ESPIONAGE ON THE UNITED STATES

The House bill contained a similar provision. The Senate amendment did not. The Senate recedes to the House position.

SEC. 311. REPORT ON ACTIVITIES OF THE CENTRAL INTELLIGENCE
AGENCY IN CHILE

Section 311 requires the Director of Central Intelligence to submit a report to the appropriate committees of Congress no later than nine months after this Act is enacted describing all activities of officers, covert agents, and employees of all elements in the intelligence community with respect to the assassination of President Salvador Allende in September 1973; the accession of General Augusto Pinochet to the Presidency of the Republic of Chile; and, violations of human rights committed by officers or agents of former President Pinochet.

The conferees note that the National Security Council on February 1, 1999, directed the Departments of State, Justice, and Defense; the Central Intelligence Agency; and the National Archives to compile and review for public release all documents that shed light on human rights abuses, terrorism, and other acts of political violence during and prior to the Pinochet era in Chile. In addition, the conferees note that the Department of Justice is conducting a search for documents pertaining to the requests of the Spanish court investigating the abuses of the Pinochet regime. The managers expect the appropriate committees of Congress, as set forth in this section, to be given access to the documents responsive to these two searches, whether classified or publicly released.

Section 311 is similar to Section 306(a) of the House bill but provides additional time for the submission of the report.

SEC. 312. REPORT ON KOSOVA LIBERATION ARMY

The House bill contained a similar provision. The Senate amendment did not. The Senate recedes to the House position.

SEC. 313. REAFFIRMATION OF LONGSTANDING PROHIBITION AGAINST
DRUG TRAFFICKING BY EMPLOYEES OF THE INTELLIGENCE COMMUNITY

The House bill contained a similar provision. The Senate amendment did not. The Senate recedes to the House position with a modification upon the insistence of the Senate.

SEC. 314. SENSE OF CONGRESS ON CLASSIFICATION AND
DECLASSIFICATION

The Senate amendment contained a similar provision. The House bill did not. The House recedes to the Senate position.

SEC. 315. SENSE OF CONGRESS ON INTELLIGENCE COMMUNITY
CONTRACTING

The House bill contained a similar provision. The Senate amendment did not. The Senate recedes to the House position.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. IMPROVEMENT AND EXTENSION OF CENTRAL SERVICES PROGRAM

The Senate amendment contained a similar provision. The House bill did not. The House recedes to the Senate position, with a modification.

SEC. 402. EXTENSION OF CIA VOLUNTARY SEPARATION PAY ACT

The Senate amendment contained a similar provision. The House bill did not. The House recedes to the Senate position, upon the insistence of the Senate.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. PROTECTION OF OPERATIONAL FILES OF THE NATIONAL IMAGERY AND MAPPING AGENCY

The House bill contained a similar provision. The Senate amendment did not. The Senate recedes to the House position, with a modification making this amendment to title 50, United States Code, rather than in title 10, United States Code.

SEC. 502. FUNDING FOR INFRASTRUCTURE AND QUALITY OF LIFE IMPROVEMENTS AT MENWITH HILL AND BAD AIBLING STATIONS

The Senate amendment contained a similar provision. The House bill did not. The House recedes to the Senate position.

TITLE VI—FOREIGN COUNTERINTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

SEC. 601. EXPANSION OF DEFINITION OF “AGENT OF A FOREIGN POWER” FOR PURPOSES OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978

The Senate amendment contained a similar provision. The House bill did not. The House recedes to the Senate position.

SEC. 602. FEDERAL BUREAU OF INVESTIGATION REPORTS TO OTHER EXECUTIVE AGENCIES ON RESULTS OF COUNTERINTELLIGENCE ACTIVITIES

The Senate amendment contained a similar provision. The House bill did not. The House recedes to the Senate position.

TITLE VII—NATIONAL COMMISSION FOR THE REVIEW OF THE NATIONAL RECONNAISSANCE OFFICE

SEC. 701. FINDINGS

Neither the House bill nor the Senate amendment contained a similar provision. Prior to the meeting of conferees, however, the managers determined that an independent review of the National Reconnaissance Office (NRO) must be conducted to ensure that the National Reconnaissance Office (NRO) must be conducted to ensure that the Intelligence Community will acquire the most efficient, technologically capable, and economical satellite collection systems,

and that the national policymakers and military leaders receive the intelligence they require to keep our nation secure. Therefore, the managers have included a provision creating the Commission for the Review of the National Reconnaissance Office.

The managers agreed that the functions and missions carried out by the NRO are essential to the provision of timely intelligence to policymakers and military leaders. However, the changing threat environment and emerging technologies have altered both what information satellites can collect and how they collect it. Additionally, Congress wants to ensure that future generations of intelligence collection satellites both perform to their requirements and are purchased at a fair cost to the taxpayer.

SEC. 702. NATIONAL COMMISSION FOR THE REVIEW OF THE NATIONAL RECONNAISSANCE OFFICE

The Commission will have eleven members. The Majority Leader of the Senate and the Speaker of the House, in consultation with the Chairman of the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence, will each appoint one commission member from their respective Chamber and two from private life. The Minority Leaders of the Senate and House, in consultation with the Vice Chairman of the Senate Select Committee on Intelligence and the ranking member of the House Permanent Select Committee on Intelligence, will each appoint one commission member from their respective Chamber and one from private life. Additionally, the Deputy Director of Central Intelligence for Community Management will be a voting member of the Commission and the Director of the National Reconnaissance Office will be an ex officio, i.e., non-voting, member of the Commission.

The managers have included requirements that individuals appointed to the Commission will have experience and expertise in technical intelligence collection systems and methods; research and development programs; acquisition management; use of intelligence information by national policymakers and military leaders; and/or the implementation, funding, or oversight of the national security policies of the United States.

The Co-Chairs of the Commission will be selected from among the members of the Commission and agreed upon by the President, the Majority and Minority Leaders of the Senate, and the Speaker and Minority Leader of the House.

SEC. 703. DUTIES OF COMMISSION

The Commission is tasked with reviewing the roles and mission of the NRO; its organizational structure; technical skills of its employees; its contractor relationships; its use of commercial imagery; its acquisition of launch vehicles, launch services, launch infrastructure, and mission assurance; its acquisition authorities; and the relationship to other agencies and departments of the Federal Government.

SEC. 704. POWERS OF COMMISSION

The Commission is authorized to hold hearings, receive testimony from witnesses, receive information from federal agencies, and receive assistance from the Director of Central Intelligence and the Secretary of Defense in order to discharge its duties under this title.

SEC. 705. STAFF OF COMMISSION

The Commission is authorized to hire staff, procure consultant services, and receive assistance from Federal Government employees detailed to the Commission in order to discharge its duties under this title.

The managers agree that any member of the Commission is authorized to designate his or her staff to serve as liaison staff to the Commission. Liaison staff are required to possess the requisite security clearances before being given any access to classified information. Liaison staff shall have the same access to the information considered by the Commission as staff directly hired by the Commission.

SEC. 706. COMPENSATION AND TRAVEL EXPENSES

Members of the Commission are authorized to be compensated and be allowed travel expenses for the performance of their duties under this title.

SEC. 707. TREATMENT OF INFORMATION RELATING TO NATIONAL SECURITY

The Director of Central Intelligence shall assume responsibility for the handling and disposition of national security information received, considered, and used by Commission.

SEC. 708. FINAL REPORT; TERMINATION

The Commission is to produce a report with recommendations to the congressional intelligence committees, the Director of Central Intelligence, and the Secretary of Defense by November 1, 2000. A copy of this report shall also be made available to the committees on Armed Services of the Senate and the House of Representatives.

The managers realize that the nature of the subject matter involved in a review of the NRO may of necessity require that Classified report be produced, but believe strongly that an unclassified report should also be made available to the public.

SEC. 709. ASSESSMENTS OF FINAL REPORT

The Director of Central Intelligence and the Secretary of Defense shall each submit to the congressional intelligence committees as assessment of the report of the Commission within 30 days of receipt of the report. A copy of these assessments shall also be made available to the Commission on Armed Services of the Senate and the House of Representatives.

SEC. 710. INAPPLICABILITY OF CERTAIN ADMINISTRATIVE PROVISIONS

The provisions of the Federal Advisory Committee Act and the Freedom of Information Act shall not apply to the activities of the Commission.

SEC. 711. FUNDING

The Director of Central Intelligence shall make available for purposes of the activities of the Commission \$5.0 million from the amounts authorized to be appropriated by this Act for the National Reconnaissance Office.

SEC. 712. CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED

The congressional intelligence committees referred to in this title refer to the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence.

TITLE VIII—BLOCKING ASSETS OF SIGNIFICANT FOREIGN NARCOTICS TRAFFICKERS

SEC. 801. SHORT TITLE

This section provides the short title for this title: “Foreign Narcotics Kingpin Designation Act.”

SEC. 802. FINDINGS AND POLICY

The provisions in title VIII are intended to be global in scope—not country-specific—and specifically focus on the major cocaine, heroin, marijuana, amphetamine, and emerging synthetic narcotics produced and sold by foreign narco-trafficking organizations. The managers believe that the enactment of these provisions will encourage U.S. law enforcement and intelligence agencies to better coordinate their efforts against the leaders of the world’s most dangerous multinational criminal organizations. This initiative will assist U.S. Government efforts to identify the assets, financial networks, and business associates of major narcotics trafficking groups. If effectively implemented, this strategy will disrupt these criminal organizations and bankrupt their leadership.

The provisions in this title are intended to supplement—not to replace—the United States’ policy of annual certification of countries based on their performance in combating narcotics trafficking. This title will properly focus our Government’s efforts against the specific individuals most responsible for trafficking in illegal narcotics by attacking their sources of income and undermining their efforts to launder the profits generated by drug-trafficking into legitimate business activities.

The intention of this legislation is to strengthen the ability of United States law enforcement effectively to target international narcotics traffickers attaching the fabric of our society. The legislation is based on the successful application of the International Emergency Economic Powers Act (IEEPA) against Colombian narcotics traffickers. There is no intention that this legislation affect Americans who are not knowingly and willfully engaged in international narcotics trafficking. Nor is it intended in any way to der-

ogate from existing constitutional and statutory due process protections for those whose assets are blocked or seized pursuant to law.

SEC. 803. PURPOSE

The legal precedent for this title was the successful application of sanctions in 1995 and 1996 against the Cali Cartel narco-trafficking organization and its key leaders. Executive Order 12978, issued by the Clinton Administration in October 1995, had the effect of dismantling and defunding numerous business entities conclusively tied to the Cali Cartel. Relying on the authorities provided within the IEEPA, President Clinton found that the activities of several Specially Designated Narcotics Traffickers (SDNTs) constituted an unusual and extraordinary threat to the United States' national security, foreign policy, and economy. In a June 1998 publication of the Treasury Department, the SDNT program was described as follows:

Companies and individuals are identified as SDNTs and placed on the SDNT list if they are determined, (a) to play a significant role in international narcotics trafficking centered in Colombia, (b) to materially assist in or provide financial or technological support for, or goods and services in support of, the narcotics trafficking activities of persons designated in or pursuant to the executive order, or (c) to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to Executive Order 12978. The objectives of the SDNT program are to identify, expose, isolate and incapacitate the businesses and agents of the Colombian cartels and to deny them access to the U.S. financial system and to the benefits of trade and transactions involving United States businesses and individuals.

Coordinated law enforcement efforts by the U.S. and Colombian Governments in support of these sanctions put the Cali Cartel kingpins out of business. This legislation is intended to follow up on the success of the Colombian SDNT precedent by applying similar U.S. Government authorities and resources against significant foreign narcotics traffickers around the globe—including, but not limited to, major narcotics traffickers and trafficking organizations based in Afghanistan, Bolivia, Burma, Colombia, Dominican Republic, Laos, Mexico, Pakistan, People's Republic of China, Peru, Russia, and Thailand.

The bottom line objective of these provisions is to bankrupt and disrupt the major narcotics trafficking organizations. The targets of this legislation are not only the drug kingpins, but those involved in their illicit activities, such as: money laundering, acquiring chemical precursors to manufacture narcotics, manufacturing the drugs, transporting narcotics from the drug source countries to the United States, and managing the assets of these criminal enterprises.

SEC. 804. PUBLIC IDENTIFICATION OF SIGNIFICANT FOREIGN
NARCOTICS TRAFFICKERS AND REQUIRED REPORTS

This section requires the Secretary of the Treasury—in consultation with the Attorney General, the Director of Central Intelligence, the Secretary of Defense, and the Secretary of State—to provide the appropriate and necessary information to enable the President to prepare the congressionally-mandated classified and unclassified reports on significant foreign narcotics traffickers. The President then shall make the determination to formally designate any significant foreign narcotics traffickers on June 1, 2000 (and not later than June 1st of each year thereafter) as constituting an unusual and extraordinary threat to the national security, foreign policy and the economy of the United States. On June 1, 2000 (and not later than June 1st of each year thereafter), the President shall submit an unclassified report to the Committees on Intelligence, International Relations, Judiciary, Armed Services, and Ways and Means of the House of Representatives, and the Committees on Intelligence, Foreign Relations, Judiciary, Armed Services, and Finance of the Senate for official review. This unclassified report shall: (1) identify publicly the foreign persons that the President determines are appropriate for sanctions pursuant to this title; and (b) detail publicly the President's intent to impose sanctions upon these significant foreign narcotics traffickers pursuant to this title. Individuals and entities linked to major narcotics trafficking groups may be added to or withdrawn from the kingpins' list by the President at any time during the year.

The managers expect that the President will provide a classified report on July 1, 2000 (and not later than July 1st of each year thereafter) to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence detailing the overall status of the program, including personnel and resources directed towards the program, and providing background information with respect to newly identified significant foreign narcotics traffickers and their activities. The managers intend that the executive branch shall provide a detailed briefing after publication of the annual classified report with respect to its findings.

If the Director of Central Intelligence or the Attorney General make a determination not to designate a foreign individual on the Global Kingpins list due to a possible compromise of intelligence or law enforcement sources and methods, the legislation requires that they shall notify the House and Senate Intelligence Committees delineating the basis of their determination. A formal notification of a determination not to designate shall be provided to the House and Senate Intelligence Committees not later than July 1, 2000, and on an annual basis thereafter.

As a general matter, it is contemplated that the Director of Central Intelligence, the Attorney General, and the Secretary of the Treasury will determine to exclude the name of an individual from the Global Kingpins list *only*: (1) under circumstances where the mere appearance of the name on the list could compromise an intelligence source or method; (2) could reasonably be expected to disclose the identity of a confidential law enforcement source; (3) would disclose techniques and procedures for law enforcement pros-

ecutions; (4) could reasonably be expected to endanger the life or physical safety of any individual; or (5) where there is an insufficient basis upon which to rely to support that individual's inclusion.

A similar version of this legislation, offered in the House as the "Drug Kingpins Bankruptcy Act of 1999," established a precedent for the future content and scope of the Global Kingpins list, by specifically identifying the first group of twelve of the world's most significant narco-traffickers from Burma, the Caribbean Region, Colombia, Mexico and Thailand. The first proposed Global Kingpins/SDNT list was developed in consultation with the Drug Enforcement Administration, the Federal Bureau of Investigation, the State Department, the Treasury Department, and the Central Intelligence Agency's Crime and Narcotics Center.

The managers also believe that the annual unclassified and classified reports to the Congress will serve as vital oversight tools by providing additional data for the annual drug certification process. The certification process requires the President to certify on March 1st of each year the level of cooperation that the United States Government is receiving from major drug producing and major transit nations. The action or lack of action by both the Administration and these nations on the "majors list" with respect to the drug kingpins will become a significant annual indicator of counterdrug cooperation.

The managers note that the Colombian Kingpins/SDNT initiative under Executive Order 12978 in October 1995 was prepared within 6 months and was based upon information already collected on these kingpins and their operations. The managers recognize that the implementation of the Global Kingpins list will require significant additional resources and personnel from the intelligence and law enforcement communities. The managers urge that the Administration provide significant additional funding in the FY2001 Budget for the Treasury Department's Office of Foreign Assets Control (OFAC) to fully implement the Global Kingpins program in 2000 on a worldwide basis. As an interim measure, the managers recommend that the Treasury Department's Office of Foreign Assets Control receive analytical assistance and technical support from the Treasury Department's Office of Intelligence Support, the Justice Department's National Drug Intelligence Center, and the CIA's Crime and Narcotics Center.

SEC. 805. BLOCKING ASSETS AND PROHIBITING TRANSACTIONS

The effect of this provision will be to block all property and interests in property within the United States that are under the direct or indirect ownership or control of significant foreign narcotics traffickers. Second, it will block all assets of any foreign persons who materially assist, provide financial or technical support, or offer goods and services to such significant foreign narcotics traffickers. Third, it will block the assets of any foreign persons, who are determined by the United States Government as controlled by or acting on behalf of significant foreign narcotics traffickers. Fourth, it will block the assets of any foreign persons that the Secretary of the Treasury—in consultation with the Director of Central Intelligence, the Director of the Federal Bureau of Investigation,

the Administrator of the Drug Enforcement Administration, the Secretary of State, and the Secretary of Defense—designates as playing a significant role in international narcotics trafficking.

The sanctions that would take effect against the kingpins designated by the President, and their organizations and subordinates, would include the following:

(a) All assets of the kingpins and their organizations and subordinates subject to United States jurisdiction would be blocked; other law enforcement tools such as seizure and forfeiture would be available if appropriate.

(b) U.S. individuals and companies would be prohibited from engaging in unlicensed transactions, including any commercial or financial dealings, with any of the named kingpins and their organizations and subordinates.

Following the Colombia IEEPA–SDNT precedent, the Secretary of the Treasury will have the authority to determine and list persons and entities deemed to be materially assisting in, providing financial or technological support for, or providing goods or services in support of the narcotics trafficking activities of significant foreign narcotics traffickers. In order to develop this second-level list of facilitating persons and entities, the Secretary of the Treasury will rely on information collected by the U.S. intelligence and law enforcement communities as well as on information provided by foreign government intelligence and law enforcement organizations. This information must pass through a rigorous interagency review process; the information must be material, factual and verifiable, and able to withstand scrutiny in a United States Federal Court. The success of the Colombia IEEPA–SDNT program has largely been the product of close U.S. cooperation with Colombian law enforcement and regulatory agencies. It is expected that global implementation of the kingpins list will promote closer U.S. cooperation with foreign law enforcement and regulatory agencies.

As with the Colombia IEEPA–SDNT program, the Secretary of the Treasury will issue all necessary administrative regulations and specifications to implement the Kingpins program on a global basis. Notification of United States persons and entities linked to significant foreign narcotics traffickers will also follow the precedents established under the Colombia IEEPA–SDNT program. Due to threats made against the U.S. officials responsible for implementation of the Colombia SDNT program, records and information obtained or created in the preparation of the Global Kingpins/SDNT list as well as the specific details on the implementation of sanctions against significant foreign narcotics traffickers would be exempted from the Freedom of Information Act.

All SDNT programs require that such designations pass an “arbitrary and capricious” test; and all designations are based upon a non-criminal standard of “reasonable cause to believe” that the party is owned or controlled by, or acts, or purports to act, for or on behalf of the sanctioned non-state party. Furthermore, the Colombia IEEPA–SDNT executive order uses an additional designation basis for foreign firms or individuals that “materially * * * assist in or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities” of the named drug kingpins or other, already designated SDNTs.

In implementing the Colombia IEEPA–SDNT program, OFAC analysts identify and research foreign targets that can be linked by evidence to individuals or entities already designated pursuant to E.O. 12978. To establish sufficient linkage, OFAC initially relied upon a significant body of documentary evidence through criminal law enforcement raids and seizures. The President’s involvement was required in the designation of the original four Cali cartel kingpins named in the annex to E.O. 12978. Additional kingpin listings in Colombia have been developed through close coordination between OFAC and the Department of Justice, and the preponderance of Colombian SDNTs have been designated as a product of OFAC’s research and collection efforts.

In the Colombia IEEPA–SDNT program, OFAC has reached designation determinations only after extensive reviews of the evidence internally and with the Department of Justice. E.O. 12978 has required that the State and Justice Departments be consulted by the Treasury prior to a designation. As noted above, Justice is deeply involved in examining the sufficiency of the evidence that occurs before any parties are added to the list.

OFAC regulations provide for post-designation review and remedies. The usual forum for considering removal of a designation (such as a change in circumstances or behavior) is one in which the named person or entity petitions OFAC for removal. Most petitioners initiate the review process simply by writing OFAC. Exchanges of correspondence, additional fact-finding and meetings occur before OFAC decides whether there is a basis for removal. Although a number of persons have been removed through this means, only a very few persons or entities on the SDNT and other SDNT lists have ever petitioned for removal. Federal courts have held that no pre-deprivation hearing is required in blocking of assets because of the Executive Branch’s plenary authority to act in the area of foreign policy and the obvious need to take immediate action upon designation to avoid dissipation of affected assets.

SEC. 806. AUTHORITIES

This section generally restates the applicable provisions of the International Economic Emergency Powers Act.

SEC. 807. ENFORCEMENT

This section generally restates the applicable provisions of the Trading with the Enemy Act.

SEC. 808. DEFINITIONS

This section defines specific terms used in this title.

SEC. 809. EXCLUSION OF PERSONS WHO HAVE BENEFITED FROM ILLICIT ACTIVITIES OF DRUG TRAFFICKERS

This section restates the applicable provisions of the Immigration and Nationality Act of 1952 as amended in 8 U.S.C. 1182(a)(2)(c). Designation on this list will result in the denial of visas and inadmissibility of specially designated narcotics traffickers, their immediate families, and their business associates.

SEC. 810. JUDICIAL REVIEW COMMISSION ON FOREIGN ASSET CONTROL

This section creates a commission to review the current judicial, regulatory, and administrative authorities under which the United States government blocks assets of foreign persons and to provide a detailed constitutional examination and evaluation of remedies available to United States persons affected by the blocking of assets of foreign persons. The commission is required to report back to Congress no later than one year after the date of enactment of this act on its findings, conclusions, and recommendations, if any, on the matters under their review. The managers believe that the public interest can best be served if the commission can reach consensus on its conclusions. The managers acknowledge, however, that consensus may not be able to be reached on the significant issues on which the commission will deliberate. To that end, therefore, the managers have provided that the report to be submitted to Congress at the end of the commission's review period shall include all additional or dissenting views, if any.

Four of the commission members are to be appointed by the Chairmen and Ranking Democrats of the congressional intelligence committees. The fifth member of the Commission shall be appointed by the four members of the commission appointed by the intelligence committee Chairmen and Ranking Democrats. The commission shall also be provided the cooperation and assistance that it requests from any agency in the federal government.

The managers are determined to ensure that the judicial, regulatory, and administrative remedies and procedures available to U.S. persons affected by the blocking of assets of foreign persons pass constitutional muster. As expected, the managers concern centers on the fundamental question of due process and whether that principle is affirmed and sustained in the execution of this legislation. The managers expect the members of the Commission to examine and report on at least the following constitutional and other issues:

- (1) whether reasonable protections of innocent U.S. businesses are available under the regime currently in place that is utilized to carry out the provisions of the International Emergency Economic Powers Act ("IEEPA");
- (2) whether advance notice prior to blocking of one's assets is required as a matter of constitutional due process;
- (3) whether there are reasonable opportunities under the current IEEPA regulatory regime and the Administrative Procedures Act for an erroneous blocking of assets or mistaken listing under IEEPA to be remedied;
- (4) whether the level of proof that is required under the current judicial, regulatory, or administrative scheme is adequate to protect legitimate business interests from irreparable financial harm;
- (5) whether there is constitutionally adequate accessibility to the courts to challenge agency actions under IEEPA, or the designation of persons or entities under IEEPA;
- (6) whether there are remedial measures and legislative amendments that should be enacted to improve the current asset blocking scheme under IEEPA or this title; and

(7) whether the resources made available for the Office of Foreign Assets Control (“OFAC”) at the Department of Treasury in the fiscal year 2001 budget submission are adequate to carry out the provisions of this title or the other programs currently in effect under IEEPA.

SEC. 811. EFFECTIVE DATE

This section establishes the effective date for this title.

From the Permanent Select Committee on Intelligence, for consideration of the Senate amendment, and the House bill, and modifications committed to conference:

PORTER GOSS,
 JERRY LEWIS,
 BILL MCCOLLUM,
 MICHAEL N. CASTLE,
 SHERWOOD BOEHLERT,
 CHARLES F. BASS,
 JIM GIBBONS,
 RAY LAHOOD,
 HEATHER WILSON,
 JULIAN C. DIXON,
 NANCY PELOSI,
 SANFORD BISHOP, Jr.,
 NORMAN SISISKY,
 GARY CONDIT.

From the Committee on Armed Services, for consideration of defense tactical intelligence and related activities:

FLOYD SPENCE,
 BOB STUMP,
 ROBERT E. ANDREWS,

Managers on the Part of the House.

From the Select Committee on Intelligence:

RICHARD SHELBY,
 BOB KERREY,
 RICHARD G. LUGAR,
 MIKE DEWINE,
 JON KYL,
 JIM INHOFE,
 ORRIN HATCH,
 PAT ROBERTS,
 WAYNE ALLARD,
 RICHARD H. BRYAN,
 BOB GRAHAM,
 JOHN F. KERRY,
 MAX BAUCUS,
 CHUCK ROBB,
 FRANK R. LAUTENBERG.

From the Committee on Armed Services:

JOHN WARNER,

Managers on the Part of the Senate.